

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Amending the Yamhill
County Tax Foreclosed Property Management
and Disposition Policy

BOARD ORDER 23-398

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on October 26, 2023, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

THE BOARD ADOPTS THE FOLLOWING FINDINGS:

WHEREAS, On February 9, 2023, the Board approved Board Order No. 23-049 adopting the Yamhill County Tax Foreclosed Property Management and Disposition Policy (“Property Policy”); and

WHEREAS, On May 25, 2023, the Supreme Court of the United States delivered an opinion in which they determined that any proceeds from a tax foreclosed property sale that exceeds the tax debt is protected by the Fifth Amendment’s Takings Clause (see *Tyler v. Hennepin County*, 598 U.S. 631 (2023)); and

WHEREAS, The Property Policy amendments as provided in Exhibit A (new language being denoted with double-underlined font) include new provisions and procedures that satisfy the decision in *Tyler v. Hennepin County*; and

WHEREAS, It is in the County’s best interest to adopt the amendments as provided in Exhibit A until such time as the Oregon legislature passes legislation that addresses the *Tyler v. Hennepin County* decision; and now, therefore

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The Yamhill County Tax Foreclosed Property Management and Disposition Policy is hereby amended as provided in Exhibit A, attached hereto and incorporated herein.
2. The updated policy provisions shall take effect immediately.
3. The County Administrator shall take all actions necessary to implement the updated policy.

DONE at McMinnville, Oregon on October 26, 2023.

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

Lindsay Berschauer

KERI HINTON
County Clerk

Chair LINDSAY BERSCHAUER

By: *Carolina Rook*
Deputy CAROLINA ROOK

Kit Johnston

Commissioner KIT JOHNSTON

FORM APPROVED BY:

Jodi Gollehon

Mary Starrett

JODI GOLLEHON
Assistant Yamhill County Counsel

Commissioner MARY STARRETT

Accepted by Yamhill County
Board of Commissioners on
10/26/23 by Board Order
23-398



ADMINISTRATIVE POLICIES

SECTION:	Yamhill County Facilities Policies	POLICY NO.:	208
TITLE:	Tax Foreclosed Property Management and Disposition Policy		
BOARD ORDERS:	B.O. 23-49; 23-398	LAST REVISED:	10/26/23

I. PURPOSE

1.01 **Purpose.** The purpose of this policy is to establish procedures for managing and conveying parcels of tax foreclosed property to the general public, or to Local Municipalities, Governmental Bodies, or Qualifying Nonprofits as applicable, in a fair and equitable manner for the benefit of the taxing districts, the County, and the public good.

II. DEFINITIONS

As used in this policy, the following definitions apply:

“**Board**” is the Yamhill County Board of Commissioners.

“**County**” means Yamhill County.

“**County Counsel**” means the Yamhill County Counsel, or his/her duly appointed representative.

“**Governmental Body**” means the State of Oregon, a political subdivision thereof, the United States of America, or an agency thereof.

“**Foreclosed Property**” means real property located in Yamhill County that is subject to a foreclosure judgment under ORS 312, but that has not yet been deeded to the County.

“**Improved Real Property**” is Real Property on which permanent improvements, or improvements under construction or in process of construction, suitable for residence, institutional, commercial, or industrial use, are situated.

“**Local Municipality**” means a unit of local government located within Yamhill County.

B.O. 23-398
Exhibit "A"

“Permissible Purpose” means any of the following purposes:

1. To provide low-income housing, social services, or childcare services; or
2. For the creation of open space, parks, or natural areas for perpetual public use.

“Personal Property” means tangible goods or items left upon Real Property, including, but not limited to, furniture, personal effects, movable tools and equipment, and manufactured dwellings that are considered separate from the Real Property under the County’s tax assessment roll. Personal Property does not include “motor vehicle” as set forth in ORS 801.590.

“Property Management” means the department and/or individual designated by the County Administrator as the manager of tax-foreclosed real property.

“Public Purpose” means a purpose of promoting the collective health, safety, and general welfare of the citizens of Yamhill County.

“Qualifying Nonprofit” means a corporation that is a public benefit corporation as defined in ORS 65.001 and that has obtained a ruling from the federal Internal Revenue Service providing that the corporation is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code.

“Record Owner” means the person, corporation, or entity who held legal title to Real Property on the date it was conveyed to the County as a result of tax foreclosure proceedings.

“Real Property” means the land, and all buildings, structures, improvements, machinery, equipment or fixtures erected on, above, or under the land, to which the County has obtained title through tax foreclosure.

“Sheriff” means the Yamhill County Sheriff, or his/her duly appointed representative.

“Social services” and **“childcare services”** means, but is not limited to, education, training counseling, health and mental health services, and the provision of facilities and administrative services to support social services and childcare services.

III. MANAGING TAX-FORECLOSED PROPERTIES

3.01 Redemption Period; Deeding Foreclosed Property to the County.

- A. Pursuant to ORS 312.120, all Foreclosed Property shall be held by the County for a period of two years after the date of the judgment of foreclosure.
- B. Upon expiration of the two-year redemption period, the County Counsel shall prepare and record a deed transferring ownership to the County for any Foreclosed Property not otherwise redeemed. Deeds should be recorded no later than December 31st of that year.
- C. The County’s deed shall include a legal description of the Foreclosed Property. The legal description may be taken from prior deeds, title reports, or as prepared by a licensed surveyor if otherwise unavailable.
- D. Any person having a lawful interest in a Foreclosed Property shall be given the opportunity to redeem the Foreclosed Property up until the date it is officially deeded to the County.

3.02 Real Property Initial Evaluation; Insurance; Ongoing Inspections.

- A. At the time the Real Property is deeded to the County, or as soon thereafter as time and resources allow, Property Management shall evaluate the Real Property for signs of occupancy, debris, security issues, hazardous conditions, or other abatement needs and inform the County Counsel of its findings. A County Inspection Form (Addendum A) may be utilized at the discretion of Property Management.
- B. The County Counsel shall inform the Yamhill County Administrator if it's determined that Real Property requires an environmental assessment due to probable contamination. Board approval is required prior to engaging in a Phase I or Phase II Environmental Site Assessment.
- C. County Counsel shall recommend to the Yamhill County Administrator which Real Property is to be added to the County's various insurance policies based on the following:
 - 1. Improved Real Property should be added to the County's General Liability insurance policy.
 - 2. Real Property with a high real market value, or which is likely to contain pollutants, asbestos, and/or other hazardous waste, should be added to the County's Property insurance policy.
 - 3. Improved Real Property which has not been added to the County's Property insurance policy, but which may still pose a financial risk to the County due to dilapidation or disrepair, should be added as a Debris Removal Only Endorsement to the County's Property insurance policy.
- D. Property Management shall request a general, nonbinding evaluation from the Yamhill County Tax Assessor as to the accuracy of the market value of the Real Property and note any potential discrepancies on the County Inspection Form.
- E. Property Management shall note on the County Inspection Form whether the Real Property is a "buildable lot" under state and local code. Where buildable status is uncertain, Property Management may request the assistance of the Yamhill County Planning and Development Department in providing a nonbinding assessment of the Real Property's buildable status.
- F. Property Management shall inspect the Real Property on an ongoing, regular basis. If any changes in occupancy, debris, security issues, hazardous conditions of the Real Property are observed, Property Management shall immediately notify and report those findings to the County Counsel.

3.03 Risk Mitigation Procedures for Structures. Property Management may take the following steps to mitigate any risk of unlawful use of Real Property structures (non-exclusive):

- A. Cancel all utilities (unless needed for safety and/or security purposes);
- B. Change all locks;
- C. Disconnect garage door openers;

- D. Post no trespassing signs at each entrance to the structure;
- E. Board up doors and windows, if needed;
- F. Install lighting timers to ensure the exterior is well lit; and
- G. Move items inside whenever possible.

3.04 Vegetation Management. Property Management shall attempt, to the best of its abilities, to manage vegetation growing on Real Property in such a way as to prevent:

- A. Excessive growth of foliage that diminishes the value of any adjacent property;
- B. Trespassers or squatters to remain on the Real Property;
- C. Mosquito larvae or pupae to grow in standing water on the Real Property; or
- D. Other conditions on the Real Property that cause or contribute to causing a public nuisance or other violation of law.

3.05 Removing Abandoned Non-vehicular Property.

- (A) If a former owner or occupant of Real Property leaves behind Personal Property, the County shall abide by the procedures provided in this section to ensure that the owner of the Personal Property, or any lienholder thereto, has been given adequate opportunity to reassert ownership and to retrieve the item(s).
- (B) Prior to storing, selling, or disposing of Personal Property left upon Real Property, Property Management shall provide written notice to the former owner stating that the County is in possession of their Personal Property. The notice shall include the following information:
 - i. Personal Property has been left upon the premises and is considered abandoned;
 - ii. The former owner or any lienholder must contact the County by a specified date to arrange for the removal of the Personal Property. The specified date by which a former owner or lienholder must contact the County is:
 - 1) For manufactured dwellings, not less than 45 days after personal delivery or mailing of the notice; or
 - 2) For all other Personal Property, not less than five (5) days after personal delivery or eight (8) days after mailing of the notice;
 - iii. The Personal Property is being safely stored at the Real Property or, if applicable, being stored at a secured storage facility;
 - iv. The former owner or any lienholder may arrange for removal of the Personal Property by contacting the County at a provided telephone number or address on or before the specified date;

- v. The County shall make the Personal Property available for removal by appointment only and only at reasonable times; and
 - vi. If the former owner or any lienholder fails to contact the County by the specified date, or after that contact, fails to remove the Personal Property within 15 days (or within 30 days for manufactured dwellings), the County may sell or dispose of the Personal Property at its discretion. If the County reasonably believes the Personal Property should be disposed of, or if the County intends to dispose of the Personal Property if it is not claimed, the notice shall state that belief and intent.
- (C) For lienholders, notice shall be delivered via first class mail and certified mail, with a return receipt requested. For all else, notice shall be:
- i. Personally delivered to the former owner; or
 - ii. Sent by first class mail addressed and mailed to the former owner at either:
 - 1) Any post-office box known to be held by the former owner; or
 - 2) The most recent forwarding address, if known by the County.
- (D) After notifying the former owner, and/or any lienholder as applicable, Property Management shall safely store the Personal Property either at the Real Property or in a secured storage facility. Property Management should promptly dispose of rotting food and allow an animal control agency to remove any abandoned pets or livestock, if necessary.
- (E) If the former owner or any lienholder responds to the written notice on or before the specified date and requests retrieval of any personal property, Property Management shall make that personal property available for removal by appointment during the 15 days (or in the case of manufactured dwellings, 30 days following the date of the response).
- (F) If the former owner or lienholder does not respond or remove the Personal Property within the time required, Personal Property is conclusively presumed to be abandoned, and Property Management may dispose of it by:
- i. Selling the Personal Property at a public sale or auction pursuant to state law;
 - ii. Donating the Personal Property without consideration to a nonprofit organization;
 - iii. Destroying or otherwise discarding of the Personal Property if the current fair market value of the personal property is estimated to be less than \$1,000 (or \$8,000 for manufactured dwellings);
 - iv. Disposing of the Personal Property pursuant to the provisions of the Oregon Uniform Disposition of Unclaimed Property Act, ORS 98.302 to 98.436; or
 - v. Some combination thereof.

3.06 Removing Motorized Vehicles Left Upon Real Property.

- (A) If a former owner or occupant of Real Property leaves behind a motor vehicle, Property Management shall abide by the procedures provided in this Section to ensure that the owner of the motor vehicle, or any lienholder thereto, has been given adequate opportunity to reassert ownership and to retrieve the vehicle(s).
- (B) Prior to towing a motor vehicle left upon Real Property, Property Management shall:
- i. Affix notice to the vehicle stating that the vehicle will be towed if it is not removed pursuant to ORS 98.830; and
 - ii. Run a title search on the motor vehicle(s) and provide written notice to all registered owners and lienholders (if any) stating that the County is in possession of the motor vehicle(s) and intends to tow it if it is not immediately removed.
- (C) The notice required of subsection (B) shall be signed by an authorized County employee and shall include the following information:
- i. The motor vehicle is unlawfully parked in violation of ORS 98.810;
 - ii. That the motor vehicle will be towed pursuant to ORS 98.830 if it is not removed by a given deadline. Such a deadline shall be no less than five (5) business days from the date of the notice;
 - iii. A description of the motor vehicle to be towed;
 - iv. The location of the Real Property from which the motor vehicle will be towed;
 - v. Contact information for the County;
 - vi. A statement confirming that, if the motor vehicle is towed, the tower will have the right to retain possession of the vehicle and its contents until the just and reasonable charges for the towage, care, and storage have been paid; and
 - vii. A statement that the County has complied with the requirements of ORS 98.830.
- (C) Notice shall be delivered via first class mail and certified mail, with a return receipt requested.
- (D) If the registered owner or any lienholder fails to remove the motor vehicle prior to the stated deadline, Property Management may have the vehicle towed pursuant to the provisions of ORS 98.830.
- (E) A County employee that tows a motor vehicle under this section must keep written documentation of the following information:
- i. The location from which the motor vehicle was towed;
 - ii. The circumstances of the tow;
 - iii. A description of the motor vehicle and a copy of the title search;
 - iv. A copy of all notices;

- v. The name and contact information of the tower used to tow the motor vehicle; and
- vi. The location where the motor vehicle is being lawfully stored.

3.07 Ejectment of Occupants; Valid Lease Holders.

- A. Real and actual notice to vacate shall be delivered by Property Management upon the occupants of the Real Property via both first class mail and in-person service and/or posting.
- B. In the event that an occupant refuses to vacate Real Property after receiving notice to vacate in accordance with subsection (A), the County Counsel may proceed with requesting a Writ of Assistance from a judicial court in accordance with ORS 107.437.
- C. If the occupants of any tax-foreclosed Real Property are able to demonstrate that they are subject to a valid, enforceable lease agreement, the County may, at the discretion of the Board:
 - i. Uphold and maintain the landlord-tenant relationship when doing so is deemed to be in the best interests of the County; or
 - ii. Proceed with evicting the tenant in compliance with ORS 90 if the occupancy is residential, or ORS 91 if the occupancy is commercial.

3.08 Cleanup of Toxic Contamination from Illegal Drug Manufacturing.

- A. In the event that Property Management suspects that Real Property may have been involved in the manufacture or distribution of illegal drugs, it shall work with the County Counsel to determine if the Real Property is “fit for use” pursuant to ORS 105.555, 431.175, and 453.855 to 453.912 and the rules of the Oregon Health Authority (OHA), or as authorized by ORS 453.870.
- B. If Real Property is determined to not be “fit for us”, the County may only sell the property if it includes a full, written disclosure, which shall be attached to the earnest money receipt (or any other receipt as provided) and the sale document, though it is not to be recorded.
- C. The County may, at the Board’s discretion, provide notice to neighboring properties of the contamination in accordance with ORS 453.876.
- D. At the Board’s discretion, and in coordination with local health and law enforcement entities, the County may engage the services of a contractor licensed by the Oregon Health Authority to decontaminate the Real Property pursuant to the provisions of 453.855 to 453.912 and other applicable law as required.

IV. DISPOSITION OF TAX-FORECLOSED PROPERTIES

4.01 General Policy; Order of Priority for the Use, Donation, or Sale of Excess Real Property; Deeds and Purchase Sale Agreements.

- (A) The County’s primary goal for Real Property is to have it reinstated to the Tax Roll or into public use.

- (B) The County shall convey Real Property by quitclaim deed and shall make no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations or any other matter. All Real Property shall be conveyed “AS IS”.
- (C) The Board has established the following preferred order of priority for the use, donation, or sale of Real Property:
 - i. Sale to the former owner if requested and qualified;
 - ii. Sale at public auction;
 - iii. Retention by the County for ongoing County use;
 - iv. Donation to a Governmental Body, Local Municipality, or Qualifying Nonprofit for the purposes provided in Section 3.04;
 - v. Donation to any nonprofit, Local Municipality, or private corporation for the purpose of providing broadband service; and
 - vi. Sale by private sale; ~~and~~
 - ~~vii. Sale at public auction.~~
- (D) The County Counsel shall prepare all deeds, purchase sale agreements, and other transactional documents required for transferring ownership (or other rights) of Real Property. All such transactional documents must be approved by the Board.

4.02 Sale to Former Owner. If the former owner indicates an interest to reacquire Real Property, the County Counsel shall follow procedures in accordance with ORS Chapter 275.180 and as otherwise set forth in these procedures.

4.03 Retention by the County for County Use.

- (A) The County Counsel shall provide a listing of available Real Property annually to both the Board and any interested County departments for review and recommendation as to whether the Real Property is needed for County use.
- (B) Any Real Property not needed for County use is deemed to be excess Real Property and is subject to sale or donation as provided in this policy.

4.04 Transfer to a Local Government, Local Municipality, or Qualifying Nonprofit.

- (A) *Transfer to Governmental Body for a Public Purpose.* In accordance with ORS 271.330(1), the County may relinquish title to Real Property not needed for public use to any Governmental Body, provided the Real Property is used for not less than twenty (20) years for a Public Purpose.
 - i. Before transferring Real Property under this section (A), the County Counsel shall advertise in a newspaper of general circulation in Yamhill County once per week for two successive weeks the Board’s intention to transfer the Real Property. The notice

must state when the Board will hear objections to the transfer and must specifically describe the Real Property intended to be transferred. After the hearing set in the notice is held and objections are heard, the Board may, at the Board's sole discretion, proceed with the donation of the Real Property.

- (B) *Transfer to Local Municipality or Qualifying Nonprofit for a Permissible Purpose.* In accordance with ORS 271.330(2)-(3), the County may relinquish title to Real Property not needed for public use to a Local Municipality or Qualifying Nonprofit for a Permissible Purpose.
- (C) Except in the case of a donation for low-income housing, Real Property donated under this section shall be deeded subject to a reversionary interest retained by the County in the event that the Real Property is used for a purpose that is inconsistent with purpose of the donation originally granted by the County. At their sole discretion, the Board may waive the County's right to a reversionary interest at the time the Real Property is conveyed.

4.05 Transfer for the Purpose of Providing Broadband Services.

- (A) In accordance with ORS 271.330(4), the County may relinquish title to Real Property to any nonprofit, Local Municipality, or private corporation for the purpose of providing broadband service.
- (B) Real Property transferred under this section shall be deeded subject to a reversionary interest retained by the County in the event that the Real Property is no longer being used for the purpose of providing broadband services. At their sole discretion, the Board may waive the County's right to a reversionary interest at the time the Real Property is conveyed.

4.06 Sale by Private Sale.

- (A) The following Real Property may be sold via private sale:
 - i. Pursuant to ORS 275.200, Real Property that failed to sell at public auction (see Section 3.07(G) for additional requirements);
 - ii. Industrial property in accordance with ORS 275.318;
 - iii. Pursuant to ORS 275.225, Real Property that:
 - 1) Has a real market value of less than \$15,000 on the Tax Roll; and
 - 2) Is unsuited for the construction or placement of a dwelling unit under applicable zoning ordinances and building codes; and
 - iv. Real Property that is otherwise authorized to be privately sold by law.
- (B) *Notification of Private Sale.*
 - i. Whenever possible, a description of the Real Property available for private sale shall be made available to the public at the County Counsel's Office and on the Yamhill County website. At minimum, the description shall contain the following information:

- 1) The Real Property's Tax Lot Number;
 - 2) The Real Property Tax Account Number;
 - 3) A legal description of the Real Property;
 - 4) The real market value of the Real Property; and
 - 5) The minimum price for which the Real Property may be sold, if any.
- ii. Upon order of the Board, the County Counsel shall publish a notice of a private sale of Real Property in a newspaper of general circulation in Yamhill County. At its discretion, the County Counsel may mail notice of a private sale of Real Property to any known interested parties, including surrounding property owners, if any.

(C) *Additional Private Sale Requirements.*

i. **Offer Forms.**

- 1) Except as otherwise provided herein, all offers to purchase via a private sale shall be submitted on an "Offer Form" as provided by the County Counsel.
- 2) All submitted Offer Forms shall be accompanied by a money order or by cashiers' check, made out to Yamhill County, for at least 10% of the bid amount (the "deposit").
- 3) The Offer Form shall contain the following statement: "The Real Property is being sold "AS IS" and the County makes no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations, nor any other matter in relation to the Real Property."

ii. **Receipt of an Offer.** All offers shall be submitted in a sealed envelope, with the Real Property's tax lot number labeled on the outside of the envelope. The County Counsel shall date and timestamp a sealed offer envelope upon receipt.

iii. **Opening of Offers.** Sealed bids shall be opened publicly at the next available Board meeting. If a subsequent bid(s) is received for a property that already has a sealed bid pending, the subsequent bid(s) shall also be opened at the same Board meeting as the initial bid, unless unforeseen circumstances prevent it.

iv. **Acceptance of an Offer.** The Board will consider all satisfactory bid offers during its regularly-scheduled Board meetings. The Board will either: 1) reject all bids received for a certain property; 2) accept the "highest and best" bid offered and order staff to proceed with a sale; or 3) delay formal acceptance of a bid and order staff to engage in additional outreach to potential buyers. Once an offer is accepted by the Board, the deposit shall be non-refundable, and payment in full shall be due within ten (10) business days.

- v. **Notification of Winning Offer.** Once an offer has been accepted by the Board, the County Counsel shall immediately notify the winning offeror and return to any non-winning offeror their respective deposit.
- vi. **Failure to Consummate Offer.** If the winning offeror fails to consummate the sale within ten (10) business days, the deposit shall be retained by the County, and the Real Property will then be offered to the next-highest offeror, if any. If the next-highest offeror does not exercise the purchase option, or if no additional offers are received, the Real Property shall be placed on the County's "Available Property List" and/or offered at future auctions upon recommendation of the Board.

4.07 Sale at Public Auction.

- (A) In accordance with ORS 275.110, the Board shall enter an order directing the Sheriff to sell at public auction any excess Real Property not otherwise transferred or sold as permitted in this policy. The order shall:
 - i. List all properties to be sold;
 - ii. Establish the terms and conditions of the sale; and
 - iii. Fix the minimum price for which each parcel may be sold.
- (B) Properties are normally sold with the minimum bid set at ~~75~~50% of the current real market value (RMV) as estimated by the County Assessor, unless otherwise authorized by the Board. However, the minimum bid amount should be sufficient to recover the unpaid property taxes on the Real Property and any costs and expenses incurred by the County in the maintenance and supervision of the Real Property.
- (C) Upon approval of the order, the County Counsel shall publish notice of the sale of the Real Property pursuant to ORS 275.120. In addition, a description of the Real Property to be auctioned shall be made available to the public at the County Counsel's Office and on the Yamhill County website.
- (D) With the assistance of the County Counsel, Real Property shall be auctioned by the Sheriff at a designated location and time in accordance with ORS 275.140.
- (E) All public auctions shall adhere to the following requirements:
 - i. *Registration.*
 - 1) Individuals intending to bid or purchase Real Property must first register with the County. Registration shall be opened to the public at least one hour prior to the auction start time.
 - 2) Bidders must be present at the auction. Property Management shall not allow absentee bidding.
 - i. *Bidding.*

- 1) The County shall only accept oral bids during the auction. Any sealed bids received by the County shall be rejected.
- 2) Bids for less than the advertised minimum bid shall not be accepted.
- 3) Bidding shall be done in increments of \$100.00.

i. *Payment & Fees.*

- 1) Successful bidders must immediately pay the County an amount equal to 20% of the minimum advertised price for the Real Property purchased (the “deposit”). Once accepted from the winning bidder, deposits are not refundable.
- 2) Full payment shall be made by the winning bidder within two business days following the auction. The County shall not carry contracts or purchase agreements for publicly auctioned Real Property.
- 3) Payment must include the bid amount plus all applicable recording fees.
- 4) Payment shall be made in cash, money order, or by cashiers’ check, made payable to “Yamhill County”.

i. *Certificate of Sale and Receipt; Deed.*

- 1) The County shall issue a “Certificate of Sale and Receipt” to the winning bidder at the time of payment. The “Certificate of Sale and Receipt” shall be signed by the successful bidder and shall include the amount of the sale and the name that is to be recorded on the deed.
- 2) The County shall deed the Real Property to the winning bidder no later than thirty (30) days following payment.

(F) The County may remove any Real Property from a public auction if the Board deems it to be in the best interest of the County.

(G) Real Properties offered but not sold at a public auction are to be sold on a first-come-first-serve basis after the auction via the private sale process outlined in Section 3.06. Such properties should initially be listed with a minimum bid price of 90% of the auction minimum bid, with the price being lowered at least monthly until the property sells or the price reaches 15% of the auction minimum bid. Notwithstanding the foregoing, the minimum bid price of certain Real Properties may be lowered immediately to 15% of the auction minimum bid amount if it is determined to be in the best interests of the County (e.g., Real Properties with significant expenses or risk).

4.08 Request for Proposals. At the discretion of the Board, and where permitted by law, the County may sell Real Property by releasing a Request for Proposals whereby the County seeks out prospective buyers and requests written proposals for the purchase and development of the Real Property. The terms of any such Request for Proposal shall be determined by the Board on a case-by-case basis.

4.09 Surplus Proceeds from Sale of Real Property.

- (A) If the sale amount for any Real Property sold exceeds the back taxes owed, plus interest, the surplus proceeds from the sale shall be refunded, following payment of all amounts authorized under ORS 275.275, upon application of the Record Owner of the Real Property.
- (B) Applications for Surplus Proceeds shall be in a form substantially similar to Addendum 2, attached hereto.
- (C) Assignments of interests, deeds, or other documents executed or recorded after Real Property is deeded to the County shall not affect the payment of surplus proceeds to the Record Owner as described herein.
- (D) In the event that no claim for the surplus proceeds is received by the County within two (2) years after the date of the sale, the County shall, at expiration of the two-year period, distribute the surplus funds as provided in ORS 275. Pursuant to ORS 98.336, the expiration of the two-year period extinguishes all claims by any Record Owner to the surplus proceeds.
- (E) Any determination or decision made by the County under this Section 4.09 is subject to review by the Yamhill County Circuit Court via a Writ of Review proceeding pursuant to the provisions of ORS 34.

4.10 Surplus Proceeds Procedure when Real Property is Retained by the County or Transferred to a Local Government, Local Municipality, or Qualifying Nonprofit.

- (A) If the County retains Real Property as permitted under Section 4.03, or if the County transfers Real Property as permitted under Sections 4.04 and 4.05, the County shall provide notice to the Record Owner of its intent to retain or transfer the Real Property.
- (B) The County shall send written notice to the Record Owner, if known, by either registered or certified mail notifying them of the County's intent to retain or transfer the Real Property. The notice shall, at minimum, include the following information:
 - 1) A statement that the County intends to retain or transfer the Real Property, and that the Record Owner has the right to object to the retention or transfer;
 - 2) An accounting of:
 - i. The total amount of back-taxes owed, plus interest, for the Real Property;
 - ii. The total amount of expenses expended by the County in the maintenance and supervision of the Real Property; and
 - iii. The total fees and penalties that are lawfully owed on the Real Property;
 - 3) An explanation that, if the Record Owner wishes to object to the retention or transfer, a notice of objection may be filed with the Board not less than 10 days from the date of the notice; and
 - 4) Clarification that any objection must contain information adequate to ascertain whether the Real Property has a market value substantially exceeding the amount of back-taxes owed, plus interest, all expenses expended by the County for the maintenance and upkeep of the Real Property, and any fees or penalties otherwise permitted by law.
- (C) If an objection is adequately and timely filed, the Board shall, at the next regular meeting, hear the objections and determine if the Record Owner has a right to alleged surplus proceeds, if any.

(D) The Board's decision is subject to review by the Yamhill County Circuit Court via a Writ of Review proceeding pursuant to the provisions of ORS 34.

ADDENDUM 1: YAMHILL COUNTY PROPERTY INSPECTION FORM

Date:	Tax Lot Number:
Inspector:	Tax Account Number:
Previous Owner(s):	Address:
Acres:	Zoning:
Real Market Value: \$ _____	Buildable Lot? <input type="checkbox"/> Y <input type="checkbox"/> N
Confirmed by Tax & Assess*? <input type="checkbox"/> Y <input type="checkbox"/> N	Confirmed by Planning*? <input type="checkbox"/> Y <input type="checkbox"/> N
Accessible by Car? <input type="checkbox"/> Y <input type="checkbox"/> N	Evidence of Occupancy? <input type="checkbox"/> Y <input type="checkbox"/> N
Connected Utilities? <input type="checkbox"/> Y <input type="checkbox"/> N	DEQ Notices Exist for Property? <input type="checkbox"/> Y <input type="checkbox"/> N
Structures on Property? <input type="checkbox"/> Y <input type="checkbox"/> N	Vegetation Maintenance Required? <input type="checkbox"/> Y <input type="checkbox"/> N
Condition of Property (short summary): 	
Security/Enforcement Checklist:	
<input type="checkbox"/> Changed Locks – Date/Details: _____	
<input type="checkbox"/> Shut Off Utilities – Date/Details: _____	
<input type="checkbox"/> Disconnected Garage Doors – Date/Details: _____	
<input type="checkbox"/> Posted No Trespassing Signs – Date/Details: _____	
<input type="checkbox"/> Moved Exterior Items Inside/Secured – Date/Details: _____	
<input type="checkbox"/> Boarded Up Windows and Doors – Date/Details: _____	
<input type="checkbox"/> Installed Exterior Lighting System – Date/Details: _____	
<input type="checkbox"/> Other – Date/Details: _____	
Vehicles on Property? <input type="checkbox"/> Y <input type="checkbox"/> N	
Plate State/Number: _____	VIN: _____
Plate State/Number: _____	VIN: _____
Plate State/Number: _____	VIN: _____
Personal Property Left on Property? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] 	
Signs of Hazardous Materials or Conditions? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] 	
Signs of Drug Manufacturing? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] 	
Other Concerns: 	
Pictures Attached? <input type="checkbox"/> Y <input type="checkbox"/> N	

*Nonbinding assessment

ADDENDUM 2: REQUEST FOR SURPLUS PROCEEDS

CLAIM FORM INSTRUCTIONS

If you believe you are entitled to surplus proceeds as a result of a tax foreclosure sale, fill out this form and mail it, along with the required documentation outlined below, to the following address:

Yamhill County Counsel's Office
ATTN: Tax Foreclosure Surplus Claim
535 NE Fifth Street
McMinnville, OR 97128

1. Attach a copy of the front and back of your current photo identification (e.g., driver's license). Provide proof of your current mailing address if different from current photo identification.
2. If applicable, attach a copy of documentation showing proof of any name changes (e.g., marriage certificate).
3. Include a copy of the property deed or other documentation showing prior ownership.
4. If you are claiming surplus proceeds for someone else, please provide documentation such as a power of attorney, conservator, guardian, etc.
5. If you are claiming property as an heir to a deceased person, send documentation such as a death certificate or obituary. If the probate is open, send original court-certified copies of Letters of Administration or Affidavit of Claiming Successor. If the probate is closed, send an original court certified copy of the Final Decree of Distribution listing the heirs. Note: Yamhill County requires probate on claims for surplus funds valued at \$5,000 and above.
6. Sign completed form in the presence of a notary public.

SURPLUS FUNDS COMPUTATION

(to be completed by County Staff)

		<i>Staff Initial</i>
Sale Amount:	\$ _____	_____
Back Taxes Owed:	\$ _____	_____
Interest:	\$ _____	_____
Liens:	\$ _____	_____
Fees & Penalties:	\$ _____	_____
Maintenance Costs:	\$ _____	_____
Legal Expenses:	\$ _____	_____
SURPLUS PROCEEDS:	\$ _____	_____