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Clackamas County
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CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: March 31, 2026 **Approx. Start Time:** 2:00 PM **Approx. Length:** 30 min

Presentation Title: Property Disposition Updated Policy and Procedures

Department: Transportation & Development (DTD)/Property Disposition

Presenters: Dan Johnson, DTD Director
Sarah Eckman, DTD Assistant Director

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Approval of an updated Property Disposition policy and procedures for the sale, transfer, and administration of tax foreclosed properties within Clackamas County.

EXECUTIVE SUMMARY:

Assessment & Taxation annually forecloses on real property in accordance with ORS 312 for nonpayment of real property taxes for approximately 6 years. After the sixth year, the properties are deeded to the County and DTD/Property Disposition is tasked with the management and disposition of these properties.

The DTD/Property Disposition Program manages, prepares, and sells tax-foreclosed properties. The mission is to transition these parcels back into private ownership and onto the tax rolls, or repurpose properties for public benefit, ensuring they once again serve as productive assets for the community.

The Property Disposition Policy and Procedures were last updated in 2018. The 2026 Policy and Procedures have been updated to reflect several significant changes that have impacted the program, most notably the shift to distributing surplus funds from the sale of foreclosed properties to the former owner after the property is sold by the County. This change started with the 2023 Supreme Court case *Tyler v. Hennepin* and was further defined this past year with Oregon House Bill 2089 (2025).

Changes to the policy and procedures have been made to:

1. Update outdated language for the program.
2. Confirm the policy of the Property Disposition program.
3. Accurately reflect programmatic changes made after *Tyler v Hennepin County*, Oregon House Bill 2089 and *Lynch v Multnomah County, et al* class action lawsuit settlement.
4. Change the Property Disposition management fee structure from a percentage-based fee to a cost recovery structure as permitted by Oregon Revised Statutes and House Bill 2089 (2025).

In accordance with ORS 275.180, a former record owner may apply to repurchase tax-foreclosed property. The repurchase price shall include all taxes and interest accrued at the time of foreclosure, plus direct costs and a Property Disposition administrative fee. Such requests may be submitted for consideration at any time, provided the County retains title and the property is not subject to a pending sale with another buyer.

DTD/Property Disposition follows legal requirements to dispose of tax-foreclosed properties in an efficient and expeditious manner. All sale authorizations are made only with the approval of the Board of County Commissioners.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? N/A

What is the funding source? Public auction proceeds

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?

Updating our policies and procedures to meet new statutory requirements directly supports our strategic plan by ensuring legal compliance, maximizing administrative cost recovery, and upholding our commitment to fiscal transparency for former property owners.

- How does this item align with the County’s Performance Clackamas goals?

Updating our policies and procedures to comply with revised statutes aligns with the Board’s strategic goal of Building Public Trust in Good Government by ensuring our operations remain transparent, legally compliant, and fiscally accountable.

LEGAL/POLICY REQUIREMENTS:

All policy & procedures updates have been made based on Oregon Revised Chapters 271, 275 and 312, Oregon House Bill 2089 (2025) and *Lynch v Multnomah County et al.* (3:23:cv-01502-IM) class action lawsuit settlement and in coordination with County Counsel.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Coordination with Oregon Department of Revenue, Oregon State Treasurer, and *Lynch v Multnomah County et al* class administrators/participants as required for disposition of surplus funds as required by above referenced legal/policy requirements.

OPTIONS:

- 1) Approve the updated Property Disposition Policy & Procedures as proposed.
- 2) Approve the updated Property Disposition Policy & Procedures with changes.
- 3) Take no action at this time.

RECOMMENDATION:

Staff recommends Option #1: Approve the updated Property Disposition Policy & Procedures as proposed.

ATTACHMENTS:

- A: Proposed DTD/Property Disposition Updated Policy & Procedures (2026)
- B: Existing Property Disposition Policy (2018)

SUBMITTED BY:

Division Director/Head Approval _____
 Department Director/Head Approval _____
 County Administrator Approval _____

For information on this issue or copies of attachments, please contact Sarah Eckman @ 503-742-4303



X Administrative Policy
X Operational Policy

Clackamas County Policy

Name of Policy	Property Disposition Policy & Procedures	Policy #	PD-2026
Policy Owner Name	Sarah Eckman, D'Anne Rome	Effective Date	X/XX/2026
Policy Owner Position	DTD Assistant Director, Property Agent	Approved Date	
Approved By	Board of County Commissioners	Next Review Date	

I. PURPOSE:

Establish procedures for the Sale, Transfer and Administration of Tax Foreclosed and other property declared as Surplus County Property consistent with adopted Policy.

Surplus County Property is defined as real estate that is no longer needed for public use because it is no longer being utilized for its original intended purpose, lacks any identified long-range plans for the parcel, or incurs maintenance costs that outweigh the county's potential benefit of retaining it.

This policy applies to the Clackamas County Department of Transportation & Development (DTD)/Property Disposition.

II. AUTHORITY

Oregon Revised Statutes Chapters 271, 275 and 312, Oregon House Bill 2089 (2025) and *Lynch v Multnomah County* et al. (3:23:cv-01502-IM) class action lawsuit settlement.

III. GENERAL POLICY

Properties become the responsibility of Clackamas County DTD/Property Disposition when they come into County ownership after a property has been foreclosed upon by the County Assessor after six years of non-payment of property taxes.

The DTD/Property Disposition Program manages, prepares, and sells tax-foreclosed properties. The mission is to transition these parcels back into private ownership and onto the tax rolls, or repurpose properties for public benefit, ensuring they once again serve as productive assets for the community. Properties are sold as-is to minimize management costs and expedite disposition. Properties requiring management services before sale are handled on a case-by-case basis. Disposition efforts occur continually throughout the year, with the goal of returning all properties to the tax rolls.

IV. PROCEDURES

A. General

1. Property Disposition Division shall at least annually:
 - a. Review its real property inventory of assets and identify tax foreclosed properties to consider for sale or transfer.
 - b. Request the Board of County Commissioners approve the properties transferred to County ownership on the most recent foreclosure deed recording as surplus. Properties from older foreclosures may also be declared surplus in preparation for disposition.
2. The sale or transfer of tax foreclosed properties declared as surplus shall be made by the Property Disposition program in accordance with Section II.
 - a. 2016 or prior date of foreclosure deed recording will be processed in accordance with Section II.

Properties in excess of \$15,000 (Assessor's Estimate of Real Market Value – ARMV) are assigned to public auction; properties with an ARMV of less than \$15,000 and unsuited for construction can also be sold pursuant to ORS 275.225.

- b. 2017 – 2024 date of foreclosure deed recording will be handled in accordance with the *Lynch v Multnomah County* 3:23-cv-01502-IM et al Class Action Settlement Agreement.
- c. 2026 or later foreclosure deed recording dates will be handled in accordance with Oregon House Bill 2089 (2025).
 - i. The county shall procure an appraisal from a licensed appraiser that is unaffiliated with the county for property described in this subsection if the real market value of the property as shown on the most recent tax statement exceeds \$250,000 and that is located in a residential zone and that was the former owner's primary residence as of the date on which the taxes for which the property was foreclosed were assessed. The county shall list such property for sale with a real estate broker or agent who does not hold an elected or appointed office and is not employed by any government entity. The list price shall be the highest price at which the property is reasonably expected to sell.
 - ii. All properties with an ARMV of less than \$250,000 as shown on tax statement as of the date the property was deeded to the county under ORS 312.200, will be auctioned a minimum of two times, first for two-thirds the property's fair market value, second for outstanding taxes and other allowable costs chargeable against the property as determined under section 8 (4) of HB 2089 (2025).

- iii. After two auctions, the properties will be listed for costs via private sale online or via other methods allowed by State law.
 - iv. If property remains unsold after 90 days of an online or other private listing, it may then be listed for public agency transfer.
- d. In accordance with ORS 275.180, a former record owner may apply to repurchase tax-foreclosed property. The repurchase price shall include all taxes and interest accrued at the time of foreclosure, plus direct costs and a Property Disposition administrative fee. Such requests may be submitted for consideration at any time, provided the County retains title and the property is not subject to a pending sale with another buyer.
 - e. Board of County Commissioners, or those with delegated authority, shall have final approval of those properties considered for transfer or sale.
3. Purchase offers for parcels managed by Property Disposition parcels and outside the existing pre-approved property surplus list for disposition, will be brought before the Board of County Commissioners in executive session for consideration.

B. Transfer Requests

Per ORS 271.330, County Departments, local Municipalities, County agencies, Special Districts and certain non-profit partners may request the transfer of a property to be used for a perpetual public use benefit (i.e. park, open space, greenway, trail, easement, Brownfield sites, etc.) consistent with an adopted strategic plan, master plan or other long term management plan of the requesting entity.

- 1. Should any of the eligible entities above request a transfer of a property, transfers will be processed based on the year the foreclosure deed was recorded for the specific property. Additional, transfer requests are:
 - a. Subject to final approval of the Board of County Commissioners.
 - b. Only considered after the County has exhausted the sale process under HB 2089 (2025); a transfer will be subject to the same sale process referenced in Section A(2)(c)(ii) of this policy.

C. Properties not selling at the Sheriff's Public Oral Auction

The Property Disposition program will review and consider the tax foreclosed property assets not sold at Sheriff's public oral auction and consider the following options:

- 1. Property may be listed for private sale based on the requirements stipulated by Oregon law.
 - i. May be placed with a private real estate broker (market value)
 - ii. May be listed for online public auction

iii. May be offered for private sale via direct mail strategies, such as to adjacent owners etc.

iv. May be offered via other methods allowed by Oregon law.

2. Property may be removed from the current surplus inventory list at any time by the Property Disposition program and/or Board of County Commissioners.

D. Property Disposition Cost Recovery and Administrative Fee Schedule

ORS 275.275 provides for the Property Disposition program to recover annual operational expenses. With consideration that the Property Disposition program is not general fund supported, the Property Disposition program shall be entitled to recover the direct and indirect costs associated with managing, selling, and transferring tax foreclosed and surplus real properties.

The complete **Property Disposition Cost Recovery and Administrative Fee Schedule** is attached as **Appendix A**.

Actions on this Policy:

Original Policy effective date: March 11, 2014

Amended Policy effective dates: September 12, 2018

APPENDIX A

CLACKAMAS COUNTY PROPERTY DISPOSITION

Cost Recovery & Administrative Fee Schedule

COST RECOVERY & ADMINISTRATIVE FEE SCHEDULE

Property Disposition cost recovery will be achieved through a combination of an **Annual Management Cost** allocation, **direct cost reimbursements**, and **flat fees** charged by the program.

DEFINITIONS:

- **Active Property** is defined as pre-auction or first auction property.
- **Annual Management Cost** is the CURRENT OPERATING REVENUES minus the CURRENT OPERATING EXPENSES at the end of the prior fiscal year, after subtracting all program expenses from the received revenues.
- **Managed Property** is inclusive of all properties under the Property Disposition portfolio.
- **Non-Active Property** is any property that is not subject to the Annual Management Cost.
- **Property Agent** is the Property Disposition program staff person responsible for managing the disposition of tax foreclosed properties.

ANNUAL MANAGEMENT COST ALLOCATION:

Prior year **Annual Management Cost** will be divided by the number of **active properties** in the Property Disposition portfolio, resulting in the Annual Management Cost per property. The cost is charged to each **active property** in the inventory for that fiscal year. This is in addition to direct costs, and flat fees, which are charged to the individual property they apply to.

Formula:

(\$) Prior year **Annual Management Cost** / **(#)** **Active Properties** = **(\$)** **Annual Management Cost Allocation**

DIRECT COST REIMBURSEMENT

Direct Cost Reimbursement costs are those charged to Property Disposition from internal or external service providers. All have an invoice tied to them; and the cost of the service will be withheld from the auction proceeds of the **managed property** that received the service(s).

Possible services may include, but are not limited to:

- Property cleanup
- Board up
- Landscaping work
- Environmental work
- Utilities
- Appraisals
- Surveyor
- Legal descriptions
- Other direct property costs

FLAT FEES

Flat Fees are fees charged to specific properties for services that are outside of the typical property administration/management tasks.

A flat fee will be charged to each property in the inventory, as work is performed.

- **AUCTION FEE**

\$2,000 per property, per auction (Non-Active Properties only.)

Fee *per property, per auction* for **non-active properties**. Auction tasks include data collection, file creation and maintenance, mailings, and other auction preparation*.

**Please note: Invoices for legal descriptions, appraisals, and any other required service(s) will be reimbursed through Direct Cost Reimbursement.*

- **OUTSIDE BROKER LISTING FEE**

\$5,000 per property, per listing

Fee *per property, per listing* with an outside broker. Includes all Property Agent work* required to prep file and facilitate entire process.

**Please note: Invoices for broker services, title companies, appraisals, and any other required service(s) will be reimbursed through Direct Cost Reimbursement.*

- **URGENT/HAZARDOUS CONDITION RESPONSE FEE**

\$1,500 per property, per response

Fee *per property, per instance* when an urgent, unanticipated need arises that requires priority action and near term follow-up by the Property Agent. Includes all research and coordination to bring specific issue to resolution*.

**Please note: Invoices for cleanup, or any other required service(s) will be reimbursed through Direct Cost Reimbursement.*

- **SITE VISIT/INSPECTION FEE**

\$550 per property, per site visit/inspection (Non-Active Properties only.)

Fee *per property, per site visit/inspection* for **non-active properties**. To/from travel to a property, site evaluation/inspection to include photographs and data collection.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Adopting Revised
Property Disposition Policy and
Procedures



Order No. **2018-100**

WHEREAS, the Property Disposition Division of the Business and Community Services Department of Clackamas County has policies and procedures related to the sale or transfer of certain property; and

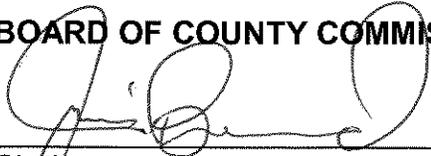
WHEREAS, on September 25, 2018 the Board of County Commissioners met to discuss proposed changes to the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property; and

Now, therefore, it is hereby ordered:

1. That the Clackamas County Board of County Commissioners hereby adopts the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property as shown on Attachments A and B to this board order.

DATED this 4th day of October, 2018

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary



Business & Community Services Department

TITLE: PROPERTY DISPOSITION POLICIES

Attachment A

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish Policies for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property.

POLICY STATEMENT:

Real property acquired by Clackamas County (the County) in any manner which is not needed for County use shall be declared surplus, except as otherwise provided for by Oregon law.

The Property Disposition Manager and BCS Director/Deputy Director will annually review and recommend to the Board of County Commissioners those real properties to be declared surplus and considered for transfer or sale. Surplus real properties shall be sold or transferred according to the procedures adopted by the County, which follow Oregon law where applicable.

The Board of County Commissioners will authorize by Board Order the list of surplus properties to be transferred or sold through the auction process. The Board of County Commissioners delegates its authority to the Business and Community Services Director and Deputy Director to develop and implement the procedures necessary and by which surplus property is transferred or sold in accordance with ORS 275 and other applicable Oregon laws.

The costs incurred by the County in the maintenance, management and administration of properties acquired by the County will be determined annually by the BCS Director. As Property Disposition is not general fund supported, the BCS Director shall ensure at all times that the necessary operational and capital reserve requirements are maintained prior to releasing excess funds as follows:

- Four (4) years of operating expenses are held in reserve and calculated annually
- Capital requirements in the amount of \$100,000.00 shall be held in reserve
- Property Cleanup and Unknown Liabilities Reserve Funds shall be held in the amount of \$500,000.00 for those assets that do not qualify as a Brownfield (i.e. site mitigation, building teardowns, legal, etc.)

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

Attachment B

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property consistent with adopted Policy.

The Director of Business and Community Services has directed the Property Disposition Division to manage tax foreclosed properties to secure the Highest Permanent Value benefitting the citizens of Clackamas County. Highest Permanent Value is defined as managing, administering and dispersing of tax foreclosed and surplus real property assets in a timely and cost effective manner that can provide a full range of social, economic and environmental benefits for the citizens of Clackamas County.

PROCEDURES:

A. General

1. Property Disposition Division shall annually:
 - a. Review its real property inventory of assets and identify tax foreclosed properties to consider for sale or transfer.
 - b. Review its budget and reserve requirements to determine available net real property revenue for distribution to the taxing districts within Clackamas County.
2. The sale or transfer of tax foreclosed properties shall be made by the Property Resources Division in accordance with ORS 275.000 to ORS 275.340 and ORS 271.300 to 271.360 and the following Highest Permanent Value criteria:
 - a. Transfer of property to taxing districts and other eligible entities – to meet local resource and public benefit needs (i.e. parks, open space, Brownfield sites)
 - b. Return property to tax rolls
 - c. Board of County Commissioners, or those with delegated authority, shall have final approval of those properties considered for transfer or sale.
 - d. At the discretion of the County, and with extenuating circumstances, the record owner or contract purchaser may be given the opportunity to repurchase the property pursuant to ORS 275.180. Said repurchase shall be in the amount of the total back taxes, interest, penalties and County administrative fee. Such repurchase or agreement to repurchase must occur within six (6) months following the expiration of the statutory redemption period commencing with the filing of the foreclosure deed.





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

B. Transfer Objective

Property Disposition Management Team will consider the tax foreclosed property assets to be declared as surplus and develop a list of available properties which will be distributed to County Departments, local Municipalities, County agencies and Special Districts.

1. Should any of the eligible entities above request a transfer of a property, transfers will be based on the following conditions:
 - a. Subject to final approval of the Board of County Commissioners.
 - b. Property will be used for a perpetual public use benefit (i.e. park, open space, greenway, trail, easement, Brownfield sites, etc.) consistent with an adopted strategic plan, master plan or other long term management plan of the requesting entity.
 - c. Property shall be conveyed for the Transfer Value as calculated on the back taxes, interest, penalties owed, plus associated costs (title report, deed recording, etc.) and Property Disposition administrative fee as determined under Section E. In certain cases, the set value of the property will be based on an appraised value (i.e. public benefit value) in consideration of its limited use under ORS 271.310 to 271.330.
 - d. Brownfield sites transferred to Land Bank Authority subject to ORS 271.310 and 271.335 and:
 - i. Transfer Value is paid in the amount of back taxes, penalties, interest, and administration fee in compliance with ORS 275.275 and as determined in Section E below.
2. Properties in excess of \$15,000 (Assessor's Estimate of Real Market Value – ARMV) are assigned to public auction; properties with an ARMV of less than \$15,000 will be considered for private marketing or assigned to public auction under ORS 275.225 (a)

C. Tax Roll Objective

Board of County Commissioners will declare tax foreclosed property assets as surplus and the Property Disposition Management Team will put them up for public auction. Public Oral Auction considerations include:

1. Value will be based on the Assessor's estimate of Real Market Value (ARMV) and/or Independent Appraised Value (IAV) at the discretion of Property Resources Division.
2. Minimum bid amounts will generally be set, but not limited to, the following criteria:
 - a. 25% of ARMV:
 - i. Property is not buildable
 - ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no existing improvements
 - iv. No public access or deeded easement for access
 - b. 50% of ARMV:
 - i. Property may be buildable





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

- ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no, or minimal existing improvements
 - iv. Limited public access or deeded easement.
- c. 75% of ARMV:
- i. Property is buildable or has existing improvements
 - ii. Review of adjacent parcels show existing improvements
 - iii. Public access or deeded easements are identified
- d. 100% of Appraised Value
- i. Property is of high value and has considerable interest
 - ii. Independent Third Party Verification will be obtained. The Property Resources Manager will obtain an Opinion of Value/Salability or Appraisal from qualified professionals on high value or significant parcels, in order to validate setting minimum bid price.
 - iii. Third party verification may be considered for all properties at the Property Resources Manager's discretion.

D. Properties not selling at the Oral Public Auction

The Property Disposition Management Team will review and consider the tax foreclosed property assets and consider the following options:

1. Property may be placed with a private real estate broker (market value)
2. Property may be considered for transfer to a qualifying special district or non-profit organization per ORS 271.330
 - a. Properties being transferred will be conveyed for a minimum of back taxes, interest, penalties owed, plus associated costs (title report, deed recording) and a Property Disposition administrative fee as set by Property Resources Manager.
 - b. A property list may be made available and distributed to qualifying nonprofit organizations.
3. Property may be removed from the current surplus inventory list at any time by the Property Disposition Management Team and/or Board of County Commissioners.

E. Property Disposition Division - Cost Recovery and Administrative Fee Schedule

Oregon Revised Statutes (ORS275.275) provides for Property Disposition Division to recover annual operational expenses. With consideration that the Property Disposition Division is not general fund supported, the Property Disposition Division shall be entitled to recover the direct and indirect costs associated with managing, selling, and transferring tax foreclosed and surplus real properties.





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

1. Direct costs include such services related to property inspections, title and property history searches, document and legal review, document preparation, accounting, sale/transfer preparation, deed recording, property liability mitigation, and other property management services as needed. The property account will be charged for the direct costs for title reports, property appraisals, deed recording and for those direct property management services performed at the established billable rates set by the Business and Community Services Department.
2. Indirect costs will be assessed to the sale or transfer of properties for administration of Property Disposition allocated cost services (reporting, accounting, legal, liability, etc.) using the following fee schedule (based on property sale or transfer value):
 - a. \$1 to \$15,000 – 15% (minimum \$150.00)
 - b. \$15,001 to \$50,000 – 12%
 - c. \$50,001 to \$100,000 – 10%
 - d. \$100,001 to \$500,000 – 8%
 - e. \$500,001 to \$1,000,000 – 5%
 - f. > \$1,000,000 – 3%
3. Former Record Owner or Contract Purchaser Repurchase fee – no less than 2% of property assessed value plus back taxes, interest, and penalties.

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration.

