

Malheur County Tax Office Tax Foreclosed Property and Disposition Policy

1. Redemption Period; Deeding Tax Foreclosed Property to Malheur County:

- A. Pursuant to ORS 312.120, all foreclosed property will be held by the County for a period of two years after the date of the judgment of foreclosure unless expedited under the County Tax Foreclosed Property Redemption Acceleration Ordinance (Ordinance 200) and ORS 312.122.
- B. Upon expiration of the two-year redemption period, the Malheur County Treasurer/Tax Collector shall prepare and record a deed transferring ownership to the County of 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.
- D. Any person having a lawful interest in foreclosed property shall be given the opportunity to redeem the foreclosed property up until the date it is officially deeded to the County.

2. Real Property Initial Evaluation:

- A. At the time real property is deeded to the County, or as soon thereafter as time and resources allow, Malheur County will evaluate the real property for signs of occupancy, debris, security issues, hazardous conditions, or other abatement needs.

3. Risk Mitigation Procedures for Structures – Including but not limited to:

- A. Cancel all utilities (unless needed for safety and/or security purposes).
- B. Change all locks or board up doors and/or windows.
- C. Post no trespassing signs.
- D. Prevent trespassers or squatters to remain on the Real Property.

4. Ejectment of Occupants:

- A. Notice to vacate shall be delivered 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), County Counsel may proceed with requesting a Writ of Assistance from a judicial court in accordance with ORS 107.437 and/or proceed with an eviction complaint for forcible entry and detainer.

5. General Policy for Disposition of Tax-Foreclosed Properties; for the Use, Donation, Sale of Real Property.

- 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 will convey real property by quitclaim deed and will make no representation about its value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city or county ordinances and regulations or any other matter. All real property is conveyed "AS IS".
- C. The County has established the following for the use, donation or sale of real property:
 - i. Sale to the former owner if requested and qualified (If former owner indicates an interest to reacquire real property, the County shall follow procedures in accordance with ORS 275.180 and as otherwise set forth in these procedures);
 - ii. Retention by the County for ongoing County use;
 - iii. Transfer to a governmental body, local municipality, or qualifying nonprofit in accordance with ORS 271.330;
 - iv. Transfer to any nonprofit, local municipality, or private corporation for the purpose of providing broadband services in accordance with ORS 271.330;
 - v. Sale by private sale (Pursuant to ORS 275.200 real property that failed to sell at public auction; pursuant to ORS 275.318 industrial property; pursuant to ORS 275.225 real property that has a Real Market Value (RMV) of less than \$15,000 on the Tax Roll and is unsuited for the construction or placement of a dwelling unit under applicable zoning ordinances and building codes); or
 - vi. Sale at public auction.
 - a. In accordance with ORS 275.110, the County Court shall enter an order directing the Sheriff to sell at public auction any real property not otherwise transferred or sold as permitted in this policy.
 - b. Properties are auctioned with the minimum bid set at 50% of the current RMV as estimated by the County Assessor, or the sum of taxes and fees, whichever is greater, unless otherwise authorized by the County Court.

- c. Upon approval by County Court, the County shall publish notice of the sale of 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 on the Malheur County Treasurer/Tax website.
- d. With assistance from the Malheur County Treasurer/Tax Collector, real property shall be auctioned by the Sheriff at a designated location and time in accordance with ORS 274.140.
- e. Registration: Individuals intending to bid or purchase real property must first register in the Malheur County Tax Office at least 15 minutes prior to the auction start time. Bidders must be present at the auction.
- f. Bidding: The County shall only accept oral bids during the auction. Bids for less than the advertised minimum bid shall not be accepted.
- g. Payments and Fees: Successful bidders must immediately pay the Malheur County Treasurer/Tax Collector a deposit amount equal to 20% of the minimum advertised price for the real property purchased. Once accepted from the successful bidder, deposits are not refundable. Full payment shall be made by the successful bidder within two (2) business days following the auction. Malheur County shall not carry contracts or purchase agreements for publicly auctioned real property. Payment must include the bid amount plus all applicable recording fees. Payments shall be made in cash, money order or cashiers' check made payable to Malheur County. Personal or business checks will not be accepted.
- h. Certificate of Sale and Receipt: The County shall issue a receipt(s). A Certificate of Sale will be issued by the Sheriff. The 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.
- i. Deed: The County shall quitclaim deed the real property to the successful bidder no later than thirty (30) days following payment in full.
- vii. The County may remove any real property from a public auction if the County Court deems it to be in the best interest of the County.
- viii. Real properties offered but not sold at a public auction are to be sold on a first-come-first-serve basis one week after the auction via a private sale process. Such properties should initially be listed with a minimum price

of 80% of the auction minimum bid with the price being lowered monthly until the property sells or the price reaches 15% RMV or the sum of taxes, interest and fees, whichever is greater.

- D. The County shall prepare all deeds, and other transactional documents required for transferring ownership (or other rights) of real property. All such transactional documents must be approved by Malheur County Court.

6. Surplus Proceeds from Sale of Real Property / Notice and Application

- A. Notice of Right to Claim Surplus Proceeds. General notice of the rights to submit a claim for proceeds from the sale of tax foreclosed property will be provided as follows:
 - i. As part of any notice to any person or entity entitled to redeem the property pursuant to ORS 312.125.
 - ii. As part of the general notice of expiration of redemption period pursuant to ORS 312.190.
 - iii. Included in the Sheriff's notice of sale pursuant to ORS 275.120.
- B. If the sale amount for any real property sold at auction exceeds the back taxes and interest owed, maintenance fees, penalties and expenses, and other costs and expenses incurred by County, such surplus proceeds may be claimed upon an Application For Surplus Proceeds. Surplus proceeds will be held in a separate account with variable interest.
- C. An Application for Surplus Proceeds shall be acquired from and returned completed to the Malheur County Tax Office. Applications must be completed by an Owner. An Owner is the individual or entity identified as the owner in tax records at the time of foreclosure, or an Owner's heirs, assigns, or successors as demonstrated through court order and/or other legal documents. The burden of demonstrating entitlement to surplus proceeds shall be on the Owner.
- D. Assignments of interest, deeds or other documents executed or recorded after real property is deeded to the County shall not affect the payment of surplus proceeds as described herein.
- E. Claim Period. In the event that no Application for Surplus Proceeds is received by the Malheur County Treasurer/Tax Office within 180 days after the date of sale, the County shall, at the expiration of the 180 days, distribute the surplus proceeds

as provided in ORS 275, which will also extinguish all claims to the surplus proceeds.

- F. In the event of a dispute between two or more claimants/ Owners regarding surplus proceeds, or in other situations where the Tax Collector/ Treasurer deems it necessary, the County may interplead funds to the Malheur County Circuit Court in Oregon pursuant to ORCP 31.
- G. Upon distribution of surplus proceeds to one or more Owners any future claim from surplus proceeds shall be barred.
- H. Owners who purchased the property from the County shall not be entitled to surplus proceeds.
- I. An Application for Surplus Proceeds must contain the following information: full name of claimant, physical address and mailing address, telephone number, email address, copy of State issued Driver's License, State Issued ID or passport, completed W-9, and percent ownership of property at the time of sale. Supporting documentation is also required to verify a claim (e.g., deed, death certificate, court order). If claiming as an heir or personal representative of an estate, provide an affidavit or letters pursuant to probate laws and submit proof of identity. Applications from third-parties are generally not accepted unless from an attorney licensed to practice law in Oregon and a statement from claimant authorizing attorney to act on the claimant's behalf.
- J. Applications for Surplus Proceeds shall be retained for seven (7) years from the date of receipt.