



2023-062

I, Cheryl Seely, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Cheryl Seely - County Clerk



IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

IN THE MATTER OF ADOPTING )  
A POLICY REGARDING THE )  
PROCEEDS OF SALES OF REAL ) ORDER NO. 2023-48  
PROPERTY FORECLOSED UPON )  
FOR NONPAYMENT OF AD VAL- )  
OREM TAXES WHICH EXCEED )  
THE VALUE OF DELINQUENT )  
TAXES, INTEREST, AND FEES )  
(SURPLUS PROCEEDS) )

WHEREAS, unless otherwise except by law, all real property in the State of Oregon is subject to ad valorem real property taxes. Real property taxes accrue each year. By Oregon law, all persons owning or claiming to own, or having or claiming to have, any interest in any real property heretofore or hereafter subject to foreclosure for delinquent taxes are indisputably and conclusively deemed to have taken notice of the following:

(1) That any real property that they owned or claimed to own, or in which they had or claim to have had any interest, and any real property that they hereafter may own or claim to own or in which they hereafter shall have or claim any interest has been assessed and hereafter will be assessed each year;

(2) That the tax levied against such real property became and hereafter will become due and delinquent at a fixed time;

(3) That the tax became and was and hereafter will become and be a lien upon such real property;

(4) That if such tax was not paid or hereafter shall not be paid within the time fixed by law, the lien has been or hereafter will be enforced by foreclosure proceedings at the time and in the manner provided by law;

(5) That since the enactment of chapter 408, General Laws of Oregon 1919, and following its effective date (May 29, 1919), such foreclosure proceedings have been and hereafter will be proceedings in rem; and

(6) That by reason of their delinquency in the matter of the payment of their taxes, there has been impressed upon and there hereafter shall be impressed upon them a continuing duty to investigate and ascertain whether or not such real property has been or hereafter shall become included in tax foreclosure proceedings, regardless of any defects, jurisdictional or otherwise, that may have appeared or hereafter shall appear in such foreclosure proceedings; and

WHEREAS, the tax collector of each county issues tax statements to the owners of record for all parcels of real property each year. The tax collector of each county will issue notices to any owner who is delinquent in the payment of real property taxes at least annually. Under Oregon law, ad valorem real property taxes constitute a lien against real property that is assessed; and

WHEREAS, if three years elapse since the date of delinquency of tax payments, the tax collector must initiate a suit to foreclose the lien for unpaid real property taxes. The tax collector sends special notices to such record owners and interest holders by first

class mail, by certified mail, and by publication in a newspaper of record the annual foreclosure list of such delinquency and that a suit for foreclosure will be initiated; and

WHEREAS, if the owners or those claiming an interest in the real property do not pay the delinquent taxes, plus interest and fees established by Oregon law, within 30 days of the initiation of the suit, then the court shall give judgment of foreclosure; and

WHEREAS, thereafter, owners and those claiming to own an interest in real property have a further 2 years to redeem the property, by the payment of delinquent taxes, statutory interest, and accrued fees. If the properties are not redeemed, they are deeded to the County; and

WHEREAS, the County may thereafter retain the ownership of the property for public use, may sell the property back to the owner of record or contract purchaser of record, or may schedule a public sale in accordance with Oregon law; and

WHEREAS, in the event that a sale of tax foreclosed property produces funds which exceed the value of delinquent taxes, interest, and fees, as those may be established by law, this Order establishes a process by which such funds may be claimed by those qualified for any overage or surplus.

NOW, THEREFORE, the Crook County Court adopts the recitals above as its Findings of Fact, and ORDERS and DIRECTS, based upon the above recitals, that:

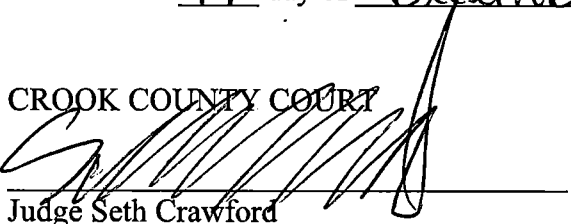
Section One: The attached Policy, entitled the Policy on Surplus Proceeds From The Sale of Tax Foreclosed Real Property, is adopted. Staff are directed to undertake such steps and activities as may be necessary or prudent to effectuate the Policy.

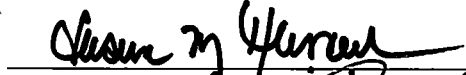
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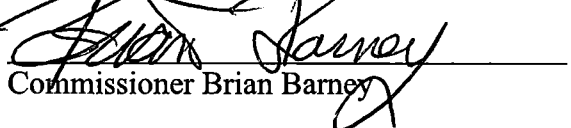
Section Two: The County Counsel's Office is authorized to make nonsubstantive changes to the Policy from time to time. Such changes may include but are not limited to: the correction of typos, the updating of addresses or points of contact, or such other changes as may be necessary to comply with operative law.

DATED this 19 day of December, 2023.

CROOK COUNTY COURT

  
\_\_\_\_\_  
Judge Seth Crawford

  
~~VACANT~~ Commissioner Susan Hermreck

  
\_\_\_\_\_  
Commissioner Brian Barney

<u>Vote:</u>	Aye	Nay	Abstain	Excused
Seth Crawford	—	—	—	—
VACANT	—	—	—	—
Brian Barney	—	—	—	—



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IN THE MATTER OF ADOPTING )  
A POLICY REGARDING THE )  
PROCEEDS OF SALES OF REAL )  
PROPERTY FORECLOSED UPON )  
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OREM TAXES WHICH EXCEED )  
THE VALUE OF DELINQUENT )  
TAXES, INTEREST, AND FEES )  
(SURPLUS PROCEEDS) )

**ORDER NO. 2023-48**

WHEREAS, unless otherwise except by law, all real property in the State of Oregon is subject to ad valorem real property taxes. Real property taxes accrue each year. By Oregon law, all persons owning or claiming to own, or having or claiming to have, any interest in any real property heretofore or hereafter subject to foreclosure for delinquent taxes are indisputably and conclusively deemed to have taken notice of the following:

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WHEREAS, if three years elapse since the date of delinquency of tax payments, the tax collector must initiate a suit to foreclose the lien for unpaid real property taxes. The tax collector sends special notices to such record owners and interest holders by first

class mail, by certified mail, and by publication in a newspaper of record the annual foreclosure list of such delinquency and that a suit for foreclosure will be initiated; and

WHEREAS, if the owners or those claiming an interest in the real property do not pay the delinquent taxes, plus interest and fees established by Oregon law, within 30 days of the initiation of the suit, then the court shall give judgment of foreclosure; and

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WHEREAS, the County may thereafter retain the ownership of the property for public use, may sell the property back to the owner of record or contract purchaser of record, or may schedule a public sale in accordance with Oregon law; and

WHEREAS, in the event that a sale of tax foreclosed property produces funds which exceed the value of delinquent taxes, interest, and fees, as those may be established by law, this Order establishes a process by which such funds may be claimed by those qualified for any overage or surplus.

NOW, THEREFORE, the Crook County Court adopts the recitals above as its Findings of Fact, and ORDERS and DIRECTS, based upon the above recitals, that:

Section One: The attached Policy, entitled the Policy on Surplus Proceeds From The Sale of Tax Foreclosed Real Property, is adopted. Staff are directed to undertake such steps and activities as may be necessary or prudent to effectuate the Policy.

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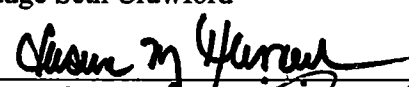
Section Two: The County Counsel's Office is authorized to make nonsubstantive changes to the Policy from time to time. Such changes may include but are not limited to: the correction of typos, the updating of addresses or points of contact, or such other changes as may be necessary to comply with operative law.

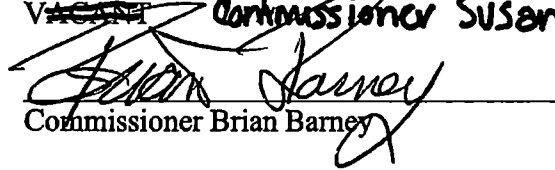
DATED this 19 day of December, 2023.

CROOK COUNTY COURT

  
\_\_\_\_\_  
Judge Seth Crawford

~~VACANT~~

  
\_\_\_\_\_  
Commissioner Susan Harmreck

  
\_\_\_\_\_  
Commissioner Brian Barney

<u>Vote:</u>	Aye	Nay	Abstain	Excused
Seth Crawford	___	___	___	___
VACANT	___	___	___	___
Brian Barney	___	___	___	___



**POLICY ON SURPLUS PROCEEDS FROM THE SALE OF TAX FORECLOSED  
REAL PROPERTY**

**A. Definitions**

1. "Acquisition Date" means the date on which a TFRP is deeded to the County following foreclosure proceedings.
2. "Governing Body" means the governing body of Crook County, whether entitled County Court, Board of County Commissioners, or such other name.
3. "Claim Period" means the period from the Acquisition Date to 180 days after the Sale Date, except as provided in sections B.2. and B.3., below.
4. "County" means Crook County, Oregon.
5. "Prior Owner" means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s).
6. "Property Costs" means any/all taxes, interest, penalties, fees, a 10% of sale price property management fee, and other actual property maintenance and supervision expenses incurred by County, pursuant to ORS 275.275(1)(a)-(c). Property Costs shall also include any administrative fees paid by purchaser pursuant to a land sale contract.
7. "Record Owner" means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure.
8. "Sale Date" means the earlier of the date on which title to property is conveyed from County to a purchaser or the date on which a memorandum of land sale contract is recorded. Sale Date shall also include the date on which the County issues a Governing Body Order retaining the property for public use.
9. "Tax Foreclosed Real Property" ("TFRP") means real property acquired by County as a result of tax foreclosure following expiration of the period of redemption.

**B. Eligible Property.**

1. This policy shall apply to all TFRP acquired on or after the date the policy is enacted.
2. For TFRP acquired on or after May 25, 2017, and sold on or after the date the policy is enacted, the claim period shall be 180 days from the Sale Date.
3. For TFRP acquired on or after May 25, 2017, and sold prior to the date the policy is enacted, the claim period shall be 180 days from the date the policy is enacted.
4. TFRP acquired by County prior to May 25, 2017, shall be excluded from this policy.

**C. Process for Selling or Retaining Tax Foreclosed Real Property**

1. Within sixty (60) days of Acquisition Date, County shall extend an offer to sell the TFRP to the Record Owner, pursuant to ORS 275.180. Record Owner shall have thirty (30) days to enter into an agreement with County to purchase the property.
2. If no agreement is reached with Record Owner, within one (1) year of the Acquisition Date, the Governing Body shall issue an Order determining whether to retain or sell the TFRP. If applicable, the Governing Body may determine whether to designate the property to Parks or Forestry.
3. TFRP to be sold shall be placed on a Sheriff's Sale, except those with a real market value less than \$15,000 and unsuited for development pursuant to ORS 275.225(1).

- i. The minimum bid shall be set at not less than the total Property Costs at the time of the sale, unless the Governing Body determines it is in the best interest of the County to set a lower minimum bid.
4. TFRP not sold at auction or otherwise exempt from the auction requirement shall be available for private sale, placed on a Sheriff's Sale, and/or retained by County at the Governing Body's discretion.
  - i. The sale price shall be not less than the total Property Costs at the time of the sale, unless the Governing Body determines it is in the best interest of the County to set a lower minimum price.
5. The Governing Body Order authorizing sale of TFRP shall distribute amounts for any known Property Costs at the time of sale to the appropriate account(s). Any remaining proceeds shall be placed in a designated fund for further distribution pursuant to this policy.

**D. Notice of Right to Claim Proceeds from Sale of TFRP**

1. General notice of the right to submit a claim for proceeds from Sale of TFRP shall 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.
2. County staff may undertake any additional or supplementary notices as may be necessary or useful to cure any defect or error.

**E. Distribution of Proceeds from Sale of TFRP**

1. Proceeds from the sale of TFRP shall be distributed in the following order:
  - i. To County in the amount of Property Costs.
  - ii. To Prior Owner(s) who have submitted to the Governing Body Office a completed claim form (Appendix A) and W-9 within the Claim Period. Where there is a dispute among Prior Owners, a court order or arbitration shall be required to define apportionment.
    - (1) The burden of demonstrating entitlement to surplus proceeds shall be on the Prior Owner.
    - (2) Where there is more than one Prior Owner, any individual Prior Owner may submit a claim form on behalf of all Prior Owners if such claim identifies all other Prior Owners entitled to claim surplus proceeds, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment.
    - (3) Upon distribution of proceeds to one or more Prior Owners any future claim for proceeds shall be barred.
    - (4) Prior Owners who purchased the property from County shall not be entitled to surplus proceeds.

(5) Claim forms shall be retained for seven (7) years from the date of receipt.

- iii. Any remaining proceeds shall be distributed pursuant to ORS 275.275(3)(b), or to Parks or Forestry if so designated.
2. Proceeds received pursuant to a land sale contract shall be applied in the order described in section D.1., except that any amounts paid to Prior Owner(s) or taxing districts pursuant to section D.1.iv. shall be distributed annually less any additional Property Costs incurred since the last distribution.
3. In the event a cash sale or land sale contract is not completed and title is not conveyed to the purchaser, any proceeds received shall be applied in the order described in section D.1. Any additional proceeds received from a subsequent sale shall be distributed in the same manner.
4. Upon expiration of the Claim Period any remaining proceeds from the sale of TFRP shall be distributed pursuant to this policy.

**APPENDIX 1**  
**Request for Surplus Proceeds - Instructions**

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

Crook County,  
Attn: Surplus Proceeds  
300 NE Court St.  
Prineville, OR 97754

Surplus Proceeds shall only be distributed to the Prior Owner of the property. **"Prior Owner"** means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s). **"Record Owner"** means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure. The burden of demonstrating entitlement to surplus proceeds is on the Prior Owner.

Where there is more than one Prior Owner, any single Prior Owner may submit a single claim form on behalf of all Prior Owners, if such claim identifies all other Prior Owners, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment. For each additional Prior Owner an Additional Prior Owner Attachment must be included along with documentation of their entitlement to claim surplus proceeds.

A Prior Owner submitting this request must:

1. Attach a copy of the property deed or other record showing prior ownership. Only one copy is required if Prior Owner consists of multiple parties.
2. Attach a copy of the front and back of current photo identification (e.g., driver's license). Provide proof of current mailing address if different from current photo identification.
3. If applicable, attach a copy of any court order or legal document establishing Prior Owner status for all Prior Owners.
4. If you are claiming surplus proceeds on behalf of another person, please provide documentation of legal authority to do so, such as a power of attorney, conservator, guardian, etc.
5. If you are claiming property as an heir to a deceased person, provide documentation such as a death certificate or obituary. If the probate is open, include original court-certified copies of Letters of Administration or Affidavit Claiming Successor. If the probate is closed, include an original court certified copy of the Final Decree of Distribution listing the heirs. Note: Crook County requires probate on claims for surplus funds valued at \$5,000 or more.
6. Sign the completed form in the presence of a notary public.

**REQUEST FOR SURPLUS PROCEEDS OF A TAX FORECLOSURE SALE**

**Section 1. Property Information**

Property ID: \_\_\_\_\_ Map/Tax Lot: \_\_\_\_\_

Property Address: \_\_\_\_\_

Prior Owner (identify all parties): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Section 2. Prior Owner Information**

More than one Prior Owner – see Additional Prior Owner Attachment(s)

Full Legal Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Status:  Record Owner      OR       Heir, Assign, or Successor (documentation attached)

**Section 3. Surplus Proceeds Distribution**

All proceeds should be distributed to the Prior Owner as a whole (one check issued to Prior Owner)

OR

Proceeds should be distributed to the Prior Owner parties as follows:

Name	Address	% of Proceeds

**Section 4.**

I declare under penalty of perjury and/or mail fraud:

- That I have reviewed this all sections of this Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Crook County and hold it harmless for and from all claims, loss, costs, damages,



ADDITIONAL PRIOR OWNER ATTACHMENT

Full Legal Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Status:  Record Owner OR  Heir, Assign, or Successor (documentation attached)

Notice of claim for surplus proceeds was provided to this Prior Owner (attach proof of notice):

On (date): \_\_\_\_\_ By (person/entity providing notice): \_\_\_\_\_

Method of Notice: \_\_\_\_\_

**Distribution of Surplus Proceeds**

A court order regarding allocation of surplus proceeds is attached.

OR

The Prior Owner identified above agrees to receive the following allocation of proceeds (identified Prior Owner must sign below in the presence of a notary):

\_\_\_\_\_% of surplus proceeds OR \$\_\_\_\_\_ lump sum from surplus proceeds

I, \_\_\_\_\_ (Prior Owner identified above) declare under penalty of perjury and/or mail fraud:

- That I have reviewed this all sections of the Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Crook County and hold it harmless for and from all claims, loss, costs, damages, and expenses that Crook County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).
- That I agree to the Distribution of Proceeds indicated herein.

\_\_\_\_\_  
Signature Date

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

This record was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_