

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing a Procedure for            )  
Accelerating the Redemption Period for Waste        )  
And Abandonment    )        ORDINANCE NO. 2016-6

The Columbia County Board of Commissioners hereby ordains as follows:

Section 1.     Title.

          This Ordinance shall be known as Ordinance No. 2016-6 “In the Matter of Establishing a Procedure for Accelerating the Redemption Period for Waste and Abandonment”.

Section 2.     Authority.

          This Ordinance is adopted pursuant to ORS 192.050 and ORS 312.122.

Section 3.     Purpose.

          The purpose of this Ordinance is to adopt a process for accelerating the redemption period for foreclosed property if the property is being subjected to waste or abandonment.

Section 3.     History.

          The property tax foreclosure statutes provide for a two-year redemption period between the time that tax delinquent property is sold to the County and the time a deed is issued to the County. During the two-year redemption period, the former owner of the tax delinquent property retains the right of possession of the property under ORS 312.180, so long as no waste of the property is committed. However, if waste of the property is committed, or if the property is abandoned, and the property is not redeemed, then the property can be wrongly and seriously devalued. Furthermore, adjacent property owners can be wrongly subjected to health hazards and other detrimental impacts because of their proximity to the wasted or abandoned property during the two-year redemption period. By ordinance, the County may provide the means to reduce the redemption period to accelerate the conveyance of the deed under ORS 312.200 after the expiration of the 30-day period provided in ORS 312.122(2)(c) if (1) the property is subjected to waste which results in a forfeiture to the county of the former owner’s right to possession of the property during the redemption period under ORS 312.180; or (2) the property is not occupied by the former owner or any interested party for a period of six consecutive months, and the property has suffered a substantial depreciation or will suffer a substantial depreciation in value if not occupied.

Section 4. Application

This Ordinance shall apply to all property sold to the County through the real property tax foreclosure process, ORS Chapter 312, from the date of general judgment until deed is issued to the County.

Section 5. Adoption.

The Board of Commissioners hereby adopts the "Columbia County Acceleration of Redemption Ordinance" which is attached hereto as Exhibit "A", and is incorporated herein by this reference.

Section 6. Severability.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including Exhibit "A" to be invalid, such portion or portions shall be deemed a separate, distinct and independent portion, and any such holding shall not affect the validity of the remaining portions hereof.

Section 7. Scrivener's Error.

A scrivener's error in any portion of this Ordinance or its attachments may be corrected by order of the Board of County Commissioners.

Dated this 9th day of November 2016.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Anthony Hyde, Chair

By:   
Henry Heimuller, Commissioner

By:   
Earl Fisher, Commissioner

Approved as to form

By:   
County Counsel

Attest  
By:   
Jan Greenhalgh, Recording Secretary

First Reading: 10-26-16

Second Reading: 11-9-16

Effective Date: 2-7-17

Exhibit "A"

COLUMBIA COUNTY ACCELERATION OF REDEMPTION ORDINANCE

SECTION 1. DEFINITIONS.

A. ABANDONMENT occurs when property is not occupied by the owner or any person or entity that appears in the records of the county to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

B. BOARD means the Columbia County Board of Commissioners.

C. FORMER OWNER means the person or entity appearing in the records of the County and by general judgment and decree issued by the Columbia County Circuit Court pursuant to ORS Chapter 312, sold property to the County for the amount of delinquent taxes stated in the judgment and decree. Former owner includes any person or entity rightfully in possession of the property during the redemption period, and any person or entity acting under the permission or control of such former owner.

D. OWNER means Columbia County for all properties shown in a general judgment and decree issued by the Columbia County Circuit Court in a proceeding to foreclose delinquent taxes under ORS Chapter 312.

E. PARTIES when used in the context of the public hearing provided for in this Ordinance, means Columbia County and any person or entity entitled to notice of that public hearing.

F. PROPERTY means the property of the former owner listed in a judgment and decree issued by the Columbia County Circuit Court in a proceeding to foreclose delinquent taxes under ORS Chapter 312.

G. RECORDS OF THE COUNTY has that meaning given in ORS 312.125(7).

H. TAX COLLECTOR means the Columbia County Tax Collector.

I. WASTE means any act with the potential to adversely affect the property's condition or value, whether caused by the former owner or by anyone acting under the former owner's permission or general control. Waste includes, but is not limited to, deterioration, destruction or material alteration of land or improvements, removal of agricultural or mineral assets, and violation of any provision of Columbia County's Solid Waste Ordinance, DEQ rule, or any rule appearing in a state or local building codes.

## SECTION 2. FORFEITURE FOR WASTE; PENALTY.

Any waste or abandonment of property, as defined in this Ordinance, shall forfeit to the County the right to possess the property during the two-year redemption period, and in addition, shall subject responsible persons to a fine as provided in Section 11.

## SECTION 3. ACCELERATION OF REDEMPTION PERIOD AUTHORIZED

If the Board determines, after a hearing provided for by this chapter, that either the property is subject to waste resulting in forfeiture to the County of the former owner's right to possess the property during the redemption period, or the property is subject to abandonment, the Board shall:

- A. Provide that any rights of possession the former owner may have in the property are forfeited;
- B. Direct that the redemption period for the property will end 30 days after the date of the Board's order; and
- C. Direct that after the expiration of the accelerated redemption period, the property shall be deeded to the County by the tax collector if the former owner or anyone else having a right to redeem under ORS Chapter 312 has not redeemed the property. All rights of redemption held by any person or entity appearing in the records of the County to have a lien or other interest in the property shall terminate on the execution of the deed to the County.

## SECTION 4. HEARING REQUIRED

- A. Whenever it appears to the Board that real property sold to the County under ORS 312.100 may be subject to waste resulting in forfeiture to the County of the former owner's right to possess the property during the redemption period, or may be subject to abandonment, the Board shall set a date, time and place within the County for a hearing to determine whether the redemption period should be accelerated.
- B. The former owner and any person or entity appearing in the records of the County to have a lien or other interest in the property shall be given an opportunity to be heard at the hearing.

## SECTION 5. NOTICE OF HEARING

- A. Not less than thirty (30) days prior to the hearing, the County shall direct notice of the hearing to the former owner, the current occupants, and any person or entity appearing in the records of the County to have a lien or other interest in the property. The Notice of Hearing shall contain the following information:
  1. The date, time and place of the hearing;

312.100; 2. The date of the General Judgment and Decree issued pursuant to ORS

312.120; 3. The date of expiration of the period of redemption under ORS

4. The legal description and tax account number of the property;

5. The name of the former owner as it appears on the latest tax roll;

6. A warning that if the County determines that the property is subject to waste or abandonment, the redemption period associated with the tax foreclosure will be shortened to thirty (30) days from the date of the County's decision, and if the property is not redeemed before the end of this accelerated redemption period, the property shall be deeded to the County by the tax collector and every right or interest of any such person in the property will be forfeited forever to the County;

7. A warning that any persons or entities remaining on the property after the property is deeded to the County may be subject to civil or criminal prosecution for trespass or to other lawful action that would remove the persons or entities from the property.

B. The required notice shall be given in any manner reasonably calculated, under all the circumstances, to apprise the former owner and other interested persons of the existence and pendency of the action and to afford them a reasonable opportunity to appear and be heard. This shall always include mailing of the notice by both certified mail and by regular first class mail. The required notice shall be directed to interested parties using the following guidelines:

1. *Notice to Former Owners:* Notice sent to a former owner shall be addressed to the former owner or former owners, as reflected in the County records of deeds, at the true and correct address of the former owner(s) appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555, or as otherwise ascertained by the County Tax Collector pursuant to ORS 311.560;

2. *Notice to Other Financially Interested Persons:* Notice sent to persons or entities other than the former owner who have a recognized interest in the property shall be addressed to that person or entity at the address which the County knows or after reasonable inquiry, has reason to believe is the address at which such person or entity will most likely receive actual notice;

3. *Notice to Corporations or Limited Partnerships:* If a person or entity with a right to notice is a corporation or limited partnership, the notice shall be mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Oregon Secretary of State Corporations Division. If the corporation or limited partnership is not authorized to transact business in

Oregon, then notice shall be mailed to the principle office or place of business of such corporation or limited partnership, if known;

4. *Notice to Occupants.* Notice to the occupant(s) of the property shall be addressed to —Occupants at the property address, and if reasonably possible, shall also be posted on the property. If occupants are unknown, certified mail is not required.

C. The failure to give notice of any item specified in this Section shall not invalidate any decision of the Board unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Board for a reopening of the hearing and shall direct the Board as to what steps shall be taken to remedy any prejudice to the rights of any party.

## SECTION 6. HEARING PROCEDURES.

The hearing shall be conducted in a manner calculated to permit a full opportunity for interested parties to receive, present, and challenge all relevant evidence, but shall not be required to follow formal statutory rules of evidence or civil procedure.

### A. Receipt of testimony and other evidence.

1. After the Board opens the public hearing, the Tax Collector, or designee, shall present oral and/or written testimony and any other evidence demonstrating why the Tax Collector believes that the property is subjected to waste or abandonment and should be deeded to the County after the expiration of 30-days.

2. Following testimony from the Tax Collector or designee, the Board shall allow any person or entity entitled to notice to present oral and/or written testimony or any other evidence regarding whether the property is subjected to waste abandonment.

3. All parties shall be allowed the opportunity to respond to any testimony presented in opposition with the Tax Collector or designee, having the final opportunity to respond.

4. The Board shall have the right to question any witness at any time.

5. The Board may set reasonable time limits for oral presentation and testimony and shall exclude or limit cumulative, repetitious or immaterial evidence.

### B. Deliberation.

1. The Board shall close the hearing after hearing from all parties and shall deliberate towards a decision.

2. The Board shall memorialize the decision by written order.

C. Hearings Quasi-Judicial.

1. Hearings pursuant to this Ordinance are quasi-judicial. The standard of review is by a preponderance of the evidence.

2. If the only party who appears at the hearing is the County, a default order may only be issued upon a prima facie case made on the record before the Board.

3. The Board members presiding over the hearing shall place on the record a statement of the substance of any written or oral ex parte communications made on a fact in issue during the pendency of the proceedings. The Board members shall notify the parties of the communications and of their right to rebut such communications.

SECTION 7. BOARD ORDER; FINDINGS AND CONCLUSIONS

A. The Board's Order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board's order. If the Board concludes that the property is subject to waste or abandonment and should be deeded to the County, the Board shall adopt an order so finding. The order shall direct:

1. That the redemption period will be accelerated and that any rights of possession the former owner may have in the property are forfeited to the County if not redeemed during the accelerated redemption period;

2. That the former owner, or any person or entity that then appears in the records of the County to have a lien or other interest in the property, may redeem the property; and

3. That if the property is not redeemed before the expiration of thirty (30) days from the date of the Order:

a. The Tax Collector shall deed the property to the County; and

b. Pursuant to ORS 312.122(2)(c), all rights of redemption shall terminate upon execution of that deed to the County.

c. A description of the parties' rights to appeal by writ of review.

B. If the Board determines after the hearing that the redemption period should not be accelerated, the Board shall adopt a written order so finding.

C. A copy of the written order shall be recorded in the deed records of Columbia County.

D. A copy of the written order shall be mailed by first class mail to the former owner and any other person or entity entitled to notice of hearing.

E. An Order shall be effective when reduced to writing and signed by the Board.

#### SECTION 8. JUDICIAL REVIEW

Review of the Board's Order shall be by writ of review, pursuant to ORS Chapter 34.

#### SECTION 9. TAX COLLECTOR'S DEED

Upon failure of any party having the right of redemption to redeem the subject property within 30 days after the effective date of the Board Order ordering acceleration of the redemption period, the Tax Collector shall issue a deed to the County, at which point all redemption rights shall terminate.

#### SECTION 10. REMOVAL OF OCCUPANTS

After issuance of a deed pursuant to this chapter, the County may remove in any manner provided by law any persons still in possession of the property.

#### SECTION 11. CIVIL FINE

Pursuant to ORS 312.990, waste on property described in ORS 312.180 (possession during redemption period) by the former owner or anyone acting under the permission or control of the former owner is punishable, upon conviction, by a fine of not less than twice the value so wasted. In addition to the remedies provided herein, the County may issue a citation to the former owner or anyone acting under the permission or control of the former owner in the amount of up to twice the value wasted. ORS 312.990 shall be enforceable under the Columbia County Enforcement Ordinance.