

TITLE 6
PUBLIC PROPERTY —
ACQUISITION, DISPOSITION, AND MAINTENANCE

CHAPTER 660

[Adopted Ord. 96-003 §1 eff. 1/31/96]

FORFEITURE REDEMPTION ACCELERATION CODE

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I. GENERAL PROVISIONS

660.005 Title

LCC 660.005 through 660.910 shall be known and cited as the Linn County Redemption Acceleration Code.

660.010 Definitions

As used in this ordinance—

(A) “**Abandonment**” occurs when property is not occupied for a period of six consecutive months by the former owner or any person or entity that appears in the records of the County to have a lien or other interest in the property.

(B) “**Board**” means the Linn County Board of Commissioners.

(C) “**Former owner**,” as opposed to “owner,” means the person or entity who appears in the records of the County and who, by a judgment and decree issued by a circuit court pursuant to the foreclosure process foreclosing delinquent taxes under ORS chapter 312, sold property to the County for the amount of the delinquent taxes stated in the judgment and decree. Former owner includes any person or entity rightfully in possession of the property, and any person or entity acting under the permission or control of such former owner.

(D) “**Owner**,” means Linn County for all properties shown in a judgment and decree that has been issued by the Linn County Circuit Court in a proceeding to foreclose delinquent taxes under ORS chapter 312.

(E) “**Property**” means the property of the former owner listed in a judgment and decree executed by the Linn County Circuit Court in a proceeding to foreclose delinquent taxes under ORS chapter 312.

(F) “**Records of the County**” has that meaning given in ORS 312.125(7).

(G) “**Tax Collector**” means the Linn County Tax Collector.

(H) “Waste” means the destruction, material alteration or deterioration of land or improvements thereon, resulting in or threatening to result in substantial loss of value to the property, whether caused directly by the former owner or permitted to be done by others through failure of the former owner to supervise such property.

[Adopted Ord. 96-003 §2 eff. 1/31/96]

660.015 Policy

It is the finding of the Linn County Board of Commissioners that property that has been sold to Linn County by the foreclosure process for delinquent taxes often is subjected to waste and abandonment. By the foreclosure process, the property for which delinquent taxes are owing, is sold by the person or entity who owned the property to the County for the delinquent taxes. The County becomes the owner and the person shown in the latest tax rolls becomes the former owner. Because “the sale of property to the county on foreclosure for delinquent taxes does not affect the former owner’s right to possession of the property during the period of redemption,” (ORS 312.180) the former owner may injure the owner’s property throughout the redemption period. If the former owner elects not to exercise the right to redeem the property, at the end of the redemption period, the County would be deeded property that may be seriously adversely affected. The County would then be unable to protect the taxing district’s and hence the public interest in the property and the county would be unable to obtain the best selling price. Because the former owner may adversely affect the value of the property and its resalability by waste or abandonment, the Oregon State Legislature enacted ORS 312.122 granting to the counties authority to adopt local legislation allowing counties to stop the injurious affects of waste and abandonment. The State Legislature granted counties the authority to accelerate the redemption period and thereby forever foreclose the rights of possession and redemption of such former owners. The Linn County Board of Commissioners therefore finds it in the best interests of the public

and the taxing districts to enact such local legislation.

[Adopted Ord. 96-003 §3 eff. 1/31/96]

660.100 Forfeiture for waste; penalty

Any waste of property, as defined in this Chapter, shall work a forfeiture to the county of the right of possession by the former owner, and in addition, the former owner shall be punished as provided in LCC 660.910.

[Adopted Ord. 96-003 §4 eff. 1/31/96]

660.200 Acceleration of redemption; period authorized

(A) Subject to hearing provided in this Chapter, the former owner and any person or entity that appears in the records of the county to have a lien or other interest in tax foreclosed property ordered sold to the County pursuant to ORS 312.100 shall forfeit any right of redemption in the property upon execution of a deed by the tax collector conveying the property to the county thirty (30) days after the Board has declared such right forfeited.

(B) Subject to the requirements of this Chapter, the Board shall have the power to order the Linn County Tax Collector to deed to the County pursuant to ORS 312.200 any real property sold to the County under ORS 312.100 after the expiration of a thirty (30) day period if the property is subject to abandonment or waste.

[Adopted Ord. 96-003 §5 eff. 1/31/96]

II. HEARING PROCEDURES

660.300 Hearing required

(A) Whenever the Board determines that real property sold to the County under ORS 312.100 may be subject to waste or abandonment, the Board shall set a date, time, and place within the County for a hearing to determine whether the property should be deeded to the County pursuant to this Chapter.

(B) The former owner of the subject property and any person or entity that appears in the records of the County to have a lien or other interest

in the property shall be given an opportunity to be heard.

Adopted Ord. 96-003 §6 eff. 1/31/96]

660.320 Notice of hearing

(A) Not less than thirty (30) days prior to the hearing, the Board shall notify the former owner, any person or entity that then appears in the records of the County to have a lien or other interest in the subject property, and the occupants of the property. The notice shall contain:

(1) The date, time, and place of the hearing;

(2) The date of the judgment and decree issued pursuant to ORS 312.100;

(3) The normal date of expiration of the period of redemption under ORS 312.120;

(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 Board determines that the property is subject to waste or abandonment, the right of possession of the property will be declared forfeited, the Tax Collector will be directed to deed the property to the County immediately after the expiration of 30 days from the date of the Board order so determining, and that every right or interest of any person in the property will be forfeited forever to the County unless the property is redeemed within that 30 day period; and

(7) A warning that any persons or entities remaining on the property after the property is deeded to the county may be subject to criminal prosecution for trespass and any lawful action to remove the persons or entities from the property.

(8) A warning that the county may seek conviction pursuant to ORS 312.990 or LCC 660.910.

(B) The notice shall be given by both regular first class and by certified mail.

(C) Notice required in this section shall be addressed in the following manner, as appropriate:

(1) *Former Owner.* Notice sent to a former owner shall be addressed to the former owner or former owners, as reflected in the County deed record, 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 Linn County Tax Collector pursuant to ORS 311.560; and

(2) *Other Than Former Owner.* Notice sent to persons or entities other than the former owner shall be addressed to that person or entity at the address which the County knows or after reasonable inquiry, has reason to believe to be the address at which such person or entity will most likely receive actual notice. If such person or entity is a corporation or limited partnership, the County shall be considered to have made reasonable inquiry if the notice is 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 Corporation Commissioner. If the corporation or limited partnership is not authorized to transact business in Oregon, then inquiry will be considered sufficient if notice is mailed to the principle office or place of business of such corporation or limited partnership. If such person or entity is an occupant, the notice shall be addressed to "Occupants," and, if reasonably possible, be posted on the property.

[Adopted Ord. 96-003 §7 eff. 1/31/96]

660.350 Conduct of hearing

(A) Definitions: as used in this section the following definitions apply —

(1) "**Parties**" means the county and any person or entity entitled to notice who makes an appearance in a hearing conducted pursuant to this Chapter.

(B) **Receipt of Evidence and Testimony.**

(1) After the Board opens the public hearing, the Tax Collector or designee shall present evidence or testimony demonstrating why the County believes that the property is subject to

waste or abandonment and should be deeded to the county.

(2) Following testimony by the Tax Collector, the Board shall allow any person or entity entitled to notice to present or challenge evidence or testimony.

(3) The Tax Collector shall be permitted to respond, and then the other parties shall be allowed to respond to the Tax Collector, and so on.

(C) *Close Hearing and Deliberation.* The Board shall then close the hearing and return the matter to the table for deliberation and decision.

(D) *Evidence.* The formal rules of evidence shall not be strictly observed.

(E) *Representation.* Parties may be represented by an attorney, or may be represented by a non-attorney if written authorization by the party is presented into the record.

(F) *Recording.* The proceeding shall be electronically recorded. The recording shall be retained for two years after the date of the Board's order.

[Adopted Ord. 96-003 §8 eff. 1/31/96]

660.370 Board order; findings and conclusions

If the Board determines after the hearing 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 state

(A) that any rights of possession the former owner may have in the property are forfeited to the County;

(B) 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 subject property may redeem the property;

(C) that, if the property is not redeemed before the expiration of thirty (30) days from the date of the order,

(1) the Tax Collector shall deed the subject property to the County; and

(2) all rights of redemption shall terminate on execution of that deed to the County.

[Adopted Ord. 96-003 §9 eff. 1/31/96]

660.400 Tax Collector's deed

Upon failure of any party having the right of redemption to redeem the subject property within 30 days after adoption of the Board Order pursuant to LCC 660.370, the Tax Collector shall issue a deed to the County, which shall terminate all redemption rights and cancel all taxes and special assessments.

[Adopted Ord. 96-003 §10 eff. 1/31/96]

660.500 Review

Review of the Board's decision provided in LCC 660.370 shall lie only by writ of review, pursuant to ORS chapter 34.

[Adopted Ord. 96-003 §11 eff. 1/31/96]

III. COUNTY ACTION FOLLOWING FORFEITURE

660.800 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.

[Adopted Ord. 96-003 §12 eff. 1/31/96]

660.910 Penalties

The commission of waste by the former owner on property sold to the county pursuant to ORS chapter 312 is punishable, upon conviction, by a fine of not less than twice the value so wasted.

[Adopted Ord. 96-003 §13 eff. 1/31/96]

Statutory References and Authorities:

ORS 93.260; ORS 203; 311.555; 311.560; 312.100; 312.120; 312.122; 312.125(7); 312.180; 312.200; 312.990

Legislative History of Chapter 660:

Adopted 96-003 eff 1/31/96
Amendments to 96- 003

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