

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 22-07-19-01

IN THE MATTER OF ADOPTING CHANGES TO
LANE MANUAL CHAPTER 21 TO UPDATE
THE COUNTY RULES FOR INSURANCE AND
COUNTY OWNED OR LEASED REAL
PROPERTY

WHEREAS, Lane Manual Chapter 21 contains the County's policy and rules relating to insurance coverage requirements and for managing, disposing of, or acquiring real property;

WHEREAS, the Chapter 21 rules relating to insurance have not been updated in over ten years, and the rules relating to real property have not been updated for nearly twenty years;

WHEREAS, regular revision of the Lane Manual is required to incorporate changes in Oregon law, changes in the County's management structure, and to modernize language and procedures for efficient use of the public's and the staff's time; and

WHEREAS, the Office of County Counsel, in cooperation with the County's Property Manager and Right of Way staff, have prepared a clear and comprehensive set of revisions to update, streamline, and correct the policies in Lane Manual Chapter 21;

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

Lane Manual Chapter 21 is amended by removing, substituting and adding the following sections:

REMOVE THESE SECTIONS

ENTIRE CHAPTER 21

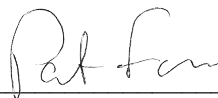
INSERT THESE SECTIONS

ENTIRE CHAPTER 21

If any section, subsection, sentence, clause, phrase, or portion of this Order or the referenced Lane Manual provisions are for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion is deemed a separate, distinct, and independent provision, and such holding does not affect the validity of the remaining portions.

Said sections are attached hereto and incorporated herein by reference. The purpose of this addition is to update contract policies and make certain housekeeping revisions.

ADOPTED this *19th* day of July, 2022



Pat Farr, Chair
Lane County Board of Commissioners

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Chapter 21 - CONTRACT POLICIES

21.005 - INSURANCE

21.005.005 - Generally.

- A. **The County Risk Manager is delegated authority to establish standard insurance requirements, forms, and procedures for all County contracts, and will post such requirements, forms, and procedures on the County Counsel intranet web page.**
- B. ~~In all~~**For any** contracts involving work upon a County facility or County-owned property, and in contracts involving a significant risk of liability to the County, the department handling the contract ~~shall~~**must** consult with the Risk Manager prior to advertising for bid **or proposals**.
~~, RFP, RFPS or obtaining quotes to determine whether the contractor will be required to provide an additional named insured endorsement in favor of Lane County for the life of the contract. If such endorsement is not obtainable, a certificate of insurance directed to the County may be substituted.~~
- ~~B. The County must be informed in advance in writing of all cancellation.~~
- C. Limits ~~of liability~~ and types of coverage will be ~~set~~**established** by the Risk Manager based upon ~~the~~ risk and exposure **involved** in the performance of the contract. Generally, ~~the liability insurance~~ limits ~~shall~~**will** not be less than those established **for the current year** in the Oregon Tort Claims Act, ORS Chapter 30.
- D. **The County Risk Manager may, at the Risk Manager's sole discretion, waive or reduce insurance requirements and amounts for a specific contract.**~~Where appropriate, as determined by the Risk Manager, contractor will be required to furnish evidence of Workers' Compensation Insurance as required by ORS Chapter 656.~~
- ~~E. Lane County reserves the right to secure insurance, if the contractor fails to do so, and the cost of same may be deducted from payments due to the contractor.~~

(Order 85-6-12-13, 6.12.85; Order 05-12-14-9, 1.1.06; Order 11-12-14-1, 12.14.11)

~~21.005.010 - Standard Insurance Provisions for Construction Contracts.~~

- ~~A. General. Contractor shall not commence any work until he or she obtains, at his or her own expense, all required insurance. Such insurance must have the approval of County as to limit, form and amount. Contractor will not permit any subcontractor to commence work on this project until the same insurance requirements have been complied with by such subcontractor.~~
 - ~~1. Types. The contractor shall obtain and maintain for the full period of the contract, the following types of insurance: Worker's Compensation Insurance and Comprehensive General Liability Insurance.~~
 - ~~2. Evidence. As evidence of specified insurance coverage, County may, in lieu of actual policies, accept certificates issued by the insurance carrier showing such policies in force for the specified period. Each policy or certificate will bear an endorsement or statement waiving right of~~

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~~cancellation or reduction in coverage, unless notice in writing has been delivered by registered mail to County. Should any policy be canceled before final payment by County to contractor and contractor fails immediately to procure other insurance as specified, County reserves the right to procure such insurance and to deduct the cost thereof from any sum due contractor under this contract.~~

- ~~3. Adequacy of Performance. Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guaranty period. Should such insurance be canceled before the end of the guaranty period and contractor fails immediately to procure other insurance, as specified, County reserves the right to procure such insurance and to charge the cost thereof to contractor.~~
- ~~4. Payment of Damages. Nothing contained in these insurance requirements is to be construed as limiting the extent of contractor's responsibility for payment of damages resulting from his or her operations under this contract.~~

~~B. Worker's Compensation Insurance. The industrial accident protection to be provided shall be in full compliance with ORS Chapter 656.~~

~~C. Comprehensive General Liability Insurance.~~

- ~~1. Before commencement of the work, contractor shall submit written evidence that he or she and all subcontractors have obtained for the period of the contract, full Comprehensive General Liability Insurance coverage. This coverage shall provide for: bodily injury, broad form property damage, automatic contractual liability, products, completed operations, personal injury and automobile. The Comprehensive General Liability Insurance will include as Additional Named Insureds County, its Commissioners, officers, employees and agents.~~
- ~~2. Except as provided in this subsection (b), the limits of Liability Insurance must not be less than those provided in the Oregon Tort Claims Act, ORS Chapter 30 for local public bodies, or the minimum amounts required by the funding source providing funds for the contract, whichever is greater.~~

~~However, to encourage bidding on small contracts by small firms, the limits of liability may be set at different levels by the Risk Manager prior to bids being advertised, depending upon the risk involved and the exposure created by the fulfilling of the contract, as long as there would not be a conflict with a funding source requirement.~~

~~-(Order 85-6-12-13, 6.12.85)~~

21.010 - REAL PROPERTY

21.010.005 - Real Property Acquisition, Management and Disposition Policy.

- A. The Lane County Board of Commissioners has final authority on all real property matters, except as such authority is delegated in this chapter.**
- B. The ~~Department of Management Services shall be~~ Office of County Administration is responsible for ~~procuring acquisition and disposal of~~ real property interests for ~~the~~ County ~~needs~~, as **provided****

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in this section. In carrying out these duties, the Office will: ~~directed by the Lane County Board of Commissioners,~~

1. **Acquire property** through purchase, ~~and~~ lease, **or exchange.**
2. ~~for managing~~ **Manage** County-owned, **County-**rented and tax-foreclosed real property.
3. ~~and for disposing~~ **Dispose** of surplus real property, ~~with the exception of County rights-of-way, parcels of land and other real property interests purchased through the General Road Fund, Solid Waste Management Fund, and Parks Fund. The Department of Management Services shall~~
4. ~~m~~ **Maintain** records on County-owned and **County-**occupied property **interests.** ~~, shall cause all property related transactions to be~~
5. ~~p~~ **Properly filed and** ~~for~~ recorded **all real property-related transactions.**
6. **File documents necessary to maintain property tax exemptions for County-owned or County-leased property.** ~~and shall~~
7. ~~r~~ **Represent** the County's interest in all property matters in accordance with applicable Federal, State and local laws, rules and regulations. ~~The Board shall have final authority on all real property matters, except as delegated elsewhere in this chapter.~~

BC. The Department of Public Works ~~shall be~~ **is** responsible for ~~acquiring~~ **acquisition and disposal of** real property interests for Public Works projects, ~~and for managing and disposing of any excess~~ **including** real property interest or parcels of land acquired through the General Road Fund, Solid Waste Management Fund, or Parks Fund. **In carrying out these duties, the** ~~The Department will: of Public Works shall~~

1. **Acquire property through purchase, lease, or exchange.**
2. **Manage County-owned and County-leased real property under the Department's authority.**
3. **Dispose of surplus real property held under the authority of the Department under this section.**
4. ~~m~~ **Maintain** records on County-owned and **County-**occupied real property interests, rights-of-way and parcels of land **under the Department's authority.** ~~acquired through the General Road Fund, Solid Waste Management Fund, and Parks Fund, shall cause all such transactions to be~~
5. ~~p~~ **Properly filed and** ~~for~~ recorded **all real property all transactions in all such real property.** ~~and shall~~
6. **File documents necessary to maintain property tax exemptions for County-owned or County-leased property.**
7. ~~r~~ **Represent** the County's interest in all such matters in accordance with applicable Federal, State and local laws, rules and regulations. ~~The Board shall have final authority on all property matters related to the General Road Fund, except as delegated elsewhere in this chapter.~~

GD. Pursuant to ORS 93.808, authority to approve the conveyance and recordation of an instrument conveying title or interest to Lane County is ~~hereby~~ delegated to:

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1. **The Right-of-Way Manager or Property Management Officer for transactions not greater than \$50,000 in value.**
 2. ~~†The Department Director to approve the recordation of for~~ **transactions of under not greater than \$100,000 in value., or the Right-of-Way Manager or Property Management Officer for transactions less than \$50,000.**
 3. The County Administrator ~~will approve~~**for** amounts ~~under not greater than \$250,000 in value. and amounts over \$250,000 will go to~~
 4. ~~†The Board of County Commissioners~~ **for transactions greater than \$250,000 in value for approval.**
- DE.** No action of Lane County officers, employees, or agents in acquiring, managing or disposing of real property ~~shall~~**will** be binding upon Lane County, if undertaken through fraud, breach of fiduciary duty or through purported exercise of powers not specifically delegated by law.
- ~~E. The County Administrator is delegated authority to sign State of Oregon Well Ownership Information Forms required to be recorded for county-owned land pursuant to ORS 537.788.~~

(Order 01-5-30-9, 5.30.01; Order 03-8-20-1, 8.20.03)

21.010.010 - Real Property Acquisition.

- ~~A. All contracts for real property acquisition shall be acted upon by the Board through prescribed agenda process. Upon Board approval, the County Administrator will be delegated authority to sign the contracts on behalf of the Board and copies will be distributed in accordance with standard contract routing procedures.~~
- B.** Acquisition of real property interests for Public Works projects ~~shall~~**will** be negotiated by the **Department of** Public Works ~~Department~~ in accordance with ~~the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and other~~ applicable Federal, State and local rules and regulations. The Department ~~shall~~**must** establish such internal procedures as **are** necessary to insure that independent appraisals and unbiased reviews are used to determine fair market value for property acquisition for such purposes. Funding for acquisition of real property interests for Public Works projects will be included in normal budgeting procedures and as part of the project costs projected through the Public Works Five **(5)** -Year Capital Improvements Program.

(Order No. 98-4-1-11, 4.1.98; Order 03-8-20-1, 8.20.03)

21.010.015 - Management of County-Owned or County-Utilized Real Property.

- A.** **It is the policy of the Board to utilize County-owned real property as a revenue source where possible, and to keep such property on the tax rolls where reasonable to do so.**
- B.** The **Office of County Administration** ~~Department of Management Services~~ ~~shall be~~**is** responsible for the lease or rental of County-owned land and buildings, ~~subject to the provisions of state statutes and other applicable laws and regulations.~~
- BC.** The **Office of County Administration** ~~Department of Management Services~~ is delegated authority to negotiate rental agreements **for County-owned or County-leased land and buildings**, subject

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to ~~established~~**the limitations on such** contracts **contained in LM Chapter 20.** ~~procedures and Board approval. Rental of County-owned property shall normally be on a month-to-month basis. The Department shall~~**is** also be responsible for collection of rents **and to manage rental properties.** ~~It is the intent of the Board to utilize County-owned real property as a revenue source where possible, and to keep such property on the tax rolls where reasonable to do so. The Department of Public Works is delegated similar authority with regard to rental units on County rights-of-way or County real property acquired through the General Road Fund.~~

- GD.** The **Office of County Administration** ~~Department of Management Services~~ is authorized to negotiate caretaker agreements, where rent of County-owned or **County**-leased property is included as part of remuneration for services rendered by the occupant, subject to established contract procedures ~~and Board approval.~~
- DE.** The **Office of County Administration** ~~Department of Management Services~~ is delegated the authority to negotiate any license for the utilization of County-owned real property, ~~and the Department of Public Works is delegated the authority to negotiate any license for the utilization of County rights-of-way or real property acquired from the General Road Fund for other than road purposes,~~ subject to established contract procedures, the following conditions and such other conditions **as are** deemed necessary by the Department:
1. All licenses to utilize County-owned real property are subject to **thirty (30)** days termination, unless a shorter term is specified.
 2. A statement ~~shall~~**must** be signed by the person utilizing County-owned real property, County rights-of-way or County real property acquired through the General Road Fund holding the County harmless from all claims arising out of that person's license, including liability for any ad valorem taxes arising as a result of the license.
- EF.** ~~Leasing~~**ing** of real property ~~by Lane for~~ County **use must** ~~shall be negotiated by the Department of Management Services in keeping consistent with the needs of the County Department requesting additional space requiring the leased property and in keeping with established space allocation procedures established by the Board or County Administrator. Lease agreements shall be~~ subject to the established contract review and execution procedures **contained in LM Chapter 20.**
- EG.** ~~The Department of Public Works is delegated authority to lease, license, or enter into caretaker agreements relating to County rights-of-way or real property acquired from the General Road Fund in the same manner as provided in LM 21.010.015C through LM 21.010.015F above. Lane County reserves the right to contract for management of real property owned and leased by Lane County to be utilized in land banking and low income housing programs.~~

(Order 98-4-1-11, 4.1.98)

21.010.020 - Disposition of County-Owned Real Property.

- A. Subject to deed restrictions and Federal and State laws **that may limit the marketability or value of a property**, it ~~shall be~~**is** the policy **of Lane County** to dispose of County-owned lands not needed for public purposes at market value. ~~, except that real property which may be utilized by~~ **If** a governmental agency **expresses a desire to acquire a parcel of County-owned land** for a public purpose within a reasonable period of time after acquisition **by the County, the County Administrator may determine that the parcel** ~~, as determined by the Board or the Department of~~

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~~Management Services, shall~~ be retained by the County **until for up to two (2) years without** further order of the Board.

B. The following procedures ~~shall~~**must** be followed in disposition of County-owned land:

1. Real Property Officers, or other staff members, as **acting under authority** delegated by the **County Administrator or** Directors of the ~~Departments of Management Services and Department of~~ Public Works, are authorized to negotiate the sale, subject to Board approval, of real property having a true cash value of \$20,000 or less, if the County has no present or future need of the property, as determined by the Department ~~of Public Works in the case of excess County rights-of-way and other property purchased through the General Road Fund, and the Department of Management Services in the case of other excess County-owned property. If funding and staffing levels permit the Department of Management Services may provide assistance with real property disposition to the Public Works Department on request.~~ Such negotiations may only occur after the property has been offered for sale through procedures defined in ORS Chapter 275.
2. The ~~Director of Public Works in the case of excess rights-of-way and other property acquired through the General Road Fund, and the Director of Management Services in the case of other excess property are~~**County Administrator is** authorized to negotiate the sale of real property having a true cash value of \$50,000 or less, if the County has no present or future need of the property as determined by ~~those respective Departments~~**the County Administrator**, subject to Board approval. Such negotiations may only occur after the property has been offered for sale through procedures defined in ORS Chapter 275.
3. County-owned land acquired in any manner whatsoever ~~shall~~**may** be sold in accordance with the provisions of ORS Chapter 275, when such sale is deemed by the Board to be in the best interests of Lane County. The **Office of County Administration** ~~Department of Public Works, for sales of excess County rights-of-way and other property acquired through the General Road Fund, and the Department of Management Services, for other excess County-owned property, shall~~**is responsible to** prepare the Board Order directing the Sheriff to conduct the sale in accordance with ORS 275.110, and ~~shall to~~ deliver a certified copy thereof, together with the information required by ORS 275.120 to the Sheriff. The Sheriff ~~shall will~~ then conduct the sale in accordance with ORS Chapter 275 and ~~shall~~ make return to the Board. Upon receiving a copy of the return, the ~~Department which initiated the sale shall~~**will** prepare the deed and other relevant documents for signature by the Board **Chair**.
4. ~~The Department of Management Services may provide assistance to the Department of Public Works in real property disposition on request if funding and staffing levels permit.~~
5. ~~Notwithstanding the provisions of LC-LM 21.010.020B.1 through LM 21.010.020B.3 425(2)(c), the private sale of~~ County-owned land may **be sold occur** in accordance with the provisions of ORS **278.030 or ORS** 275.225, when such sale is deemed by the Board to be in the best interests of Lane County, **upon action of** ~~the Board may authorize the sale of County land by private sale if each parcel to be sold is assessed at less than \$5,000 on the most recent assessment roll prepared for the County and unsuited for the construction or placement of structures thereon under current zoning ordinances and building codes of the County.~~
5. **The Department of Public Works is delegated authority to negotiate or sell excess County rights-of-way or real property acquired from the General Road Fund in the same manner as provided in LM 21.010.020B.1 through LM 21.010.020B.4 above.**

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- C. Conveyance **of County-owned property acquired through tax foreclosure will** ~~shall~~ be **made** by quitclaim deed without title insurance ~~for land obtained by tax foreclosure~~, except as may be negotiated with purchaser at ~~his or her~~ **the purchaser's** expense. Other conveyances ~~shall from the County will~~ normally be **made** by bargain and sale deed, with the County providing title insurance, **as negotiated with the purchaser.**
- D. Real property acquired by tax foreclosure may be sold to the record owner or a contract purchaser of record as provided in ORS 275.180, when any of the following conditions exist:
1. The property was placed on the foreclosure list as a result of an error or omission in the records of the Department of Assessment and Taxation.
 2. The property was the residence of the record owner or contract purchaser of record at the time of the foreclosure.
 3. The record owner or contract purchaser of record suffered from a mental or physical incapacity or inability during the foreclosure and redemption period, satisfactory evidence of which is presented to the Board of Commissioners.

(Order 98-4-1-11, 4.1.98)

21.010.025 - Donation of Tax-Foreclosed Property for Low-Income Housing, Social Services or Child Care.

- A. Findings.
1. ORS 271.330(2) specifically permits counties to transfer county-owned property, tax-foreclosed or otherwise, to municipal or nonprofit corporations, with or without consideration, for the purpose of providing low-income housing, social services or child care. ORS 456.355 ~~through-~~ **ORS** 456.370 further provides that counties have certain powers, including the power to convey property with or without consideration, to certain entities including nonprofit corporations, in order to aid in the development of housing projects.
 2. The Board believes that safe, sanitary, affordable housing is essential to the stability and vitality of the County.
 3. While property remains in County ownership as a result of tax-foreclosure, it fails to contribute to the tax revenue stream for taxing districts at the same time it requires maintenance at County expense.
 4. The Board believes it is of much greater benefit to County residents to have such properties developed and used to provide low-income housing than to remain unused in County ownership.

B. Definitions.

"Low-Income Family" means a family whose annual income does not exceed **eighty 80**-percent **(80%)** of the median income for the area, as determined annually by HUD.

"Municipal Corporation" means any governmental organization duly organized under the laws of the State of Oregon ~~which that~~ has as one of its powers the authority to provide housing for low-income individuals or families.

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- "Nonprofit Corporation" means any corporation not for profit organized under ORS ~~CH~~ **Chapter** 65 for the purpose of undertaking, constructing, or operating decent, safe and sanitary housing for low-income individuals or families.
- C. Notification of Availability of Tax-Foreclosed Property. When the foreclosed property is deeded to the County, the County Real Estate Division responsible for managing such properties (hereinafter "Real Estate Division") shall notify the cities in Lane County, the ~~Lane County~~ Housing Authority **and Community Services Agency of Lane County**, and such nonprofit corporations ~~which that~~ request notice, that properties are eligible for transfer under this program. The Real Estate Division shall not schedule Sheriff's sale on these properties until **sixty (60)** days after the notice is mailed. A municipal or nonprofit corporation may request the Real Estate Division withhold from Sheriff's sale one or more specific properties for a period not exceeding six **(6)** months to allow time for the requesting entity to consider making a proposal under LM 21.010.025(D) below.
- D. Procedure for Requesting Transfer.
1. A municipal or nonprofit corporation may request transfer of tax foreclosed property owned by the County at any time. The request shall be in writing, specifically identifying the property and describing the proposed use.
 2. The Real Estate Division shall in a timely manner, investigate the proposal and prepare a report for the Housing Policy Board, or other entity as designated by the Board, which covers the identity of the requesting entity; the proposed use of the property; the entity's ability (financial and otherwise) to accomplish the proposal; the location of the property and its market value and zoning; the taxes owing at the time the property was deeded to the County; and any costs incurred by the County to date in managing the property.
 3. The requesting entity shall cooperate with the Real Estate Division in the investigation, including making available as necessary such documentation as financial statements and development plans. The Real Estate Division shall work with staff to the Housing Policy Board (HPB) in conducting the investigation and preparing the report.
 4. The HPB shall review the report, direct further review as deemed necessary and make a recommendation to the Board. If the HPB's recommendation is to deny the request, the County Commissioner(s) on the HPB shall orally convey the recommendation to the Board and no further actions shall take place on the request unless directed by the Board.
 5. If the HPB's recommendation is to approve the request, the Real Estate Division shall schedule a public hearing on the request, as covered by ORS 271.330 and ORS 456.355- **through ORS 456.370**. The Division shall duly publish notice of the hearing on the transfer for two **(2)** successive weeks, before the hearing, and shall prepare the ordinance and appropriate agenda materials.
 6. At the conclusion of the hearing, the Board shall make a decision as to whether to grant or deny the request, based solely on its determination and judgment as to what is in the best interest of the public. Approval of any request shall be on such terms and conditions as deemed appropriate by the Board, and may be for consideration or for no consideration.
- E. Transfer. If approved, the transfer of title shall occur by quitclaim deed, which may provide, if so directed by the Board, that title shall revert to the County if the property ceases to be used for low-income housing purposes during a specified time period. If the requesting entity desires a bargain and sale deed, such a deed shall be provided if a title report from a title insurance company selected

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by the County shows clear title and the requesting entity pays for the title insurance policy; the deed may also include a reversionary clause. Terms and conditions imposed by the Board or at its direction not appropriate to a deed shall be contained in a development agreement between the County and the entity. These may include conditions of development appropriate to the project, and elements and consequences of default.

- F. Fees. There is no fee for a request pursuant to LM 21.010.025~~(C)~~. The requesting entity shall tender with its request pursuant to LM 21.010.025~~(D)~~ a non-refundable administrative fee of **four hundred dollars (\$400)** for processing the request. In addition, the requesting entity shall pay for the out-of-pocket costs of the transfer, including but not limited to the publication costs, and recording fees.
- G. Other Properties/Other Uses. The Board recognizes that ORS 271.330 permits donation of property acquired in some manner other than through tax foreclosure, and further that it permits donation to municipal or nonprofit corporations for social services or child-care purposes. Should a municipal or nonprofit corporation desire to have the Board consider donation of property obtained by any manner for statutorily- identified purposes, the same process as described above should generally be followed. The ordinance shall specify the public benefit of the transfer, any restrictions deemed reasonable by the Board, any necessary repayment of constitutionally dedicated funds used in the acquisition or improvement of the property and the source of repayment, and the appraised value of the property if it is not tax-foreclosed property.
- H. The provisions of LM 21.010.025~~(A)~~ **-through LM 21.010.025(G)** above are discretionary and not mandatory, despite the use of directory language ("shall" or "will"). Regardless of these provisions, the County specifically reserves the right to schedule a Sheriff's sale or sell any particular piece(s) of property at such time and in such manner as the Board deems in the County's best interest.

(Order 93-3-9-6, 3.9.93)

21.010.030 - Designation of County Forests, Parks, and Recreational Areas

- A. Upon the completion of those requirements set forth in LM 21.010.025, the ~~Director of the Department of Management Services~~ **County Administrator or Designee** may, in consultation with the Parks **Division** Manager, prepare a list of foreclosed properties to be designated and set aside for county forests, parks, and recreation areas. Only properties outside the corporate limits of a city shall be considered for inclusion on the property list.
- B. In preparing the property list, due consideration shall be given to at least the following:
 - 1. Environmental issues;
 - 2. Overall benefit to the County;
 - 3. Financial needs of the affected departments.
- C. The property list shall be brought before the Board of County Commissioners who may, by order, designate and set aside any such properties for county forest, public park, or recreational area uses. Any properties so set aside shall thereafter be managed by the Parks Division.
- D. Property designated under LM 21.010.030~~(C)~~ may thereafter be alienated, sold, or conveyed pursuant to ORS 275.330 following the statutory process and requirements.

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- E. If a designated property is alienated, sold, or conveyed pursuant to ORS 275.330(2), the proceeds shall be held for maintenance and improvement of existing park and recreation lands or future acquisition of lands to be set aside for park or recreational purposes.

(Order 05-2-2-2, 2.2.05)

21.010.035 - Sale of County Timber & Log Export Regulations

- A. Subject to ORS Chapter 275 and other Federal and State Laws it shall be the policy of Lane County to sell County Timber to the highest bidder.

- B. Definitions. As used in this subchapter, the following words and phrases shall mean:

“County Lands” means lands owned or managed by Lane County.

“County Timber” mean any timber owned or managed by Lane County.

“County Timber Sale Contract” means any contract with Lane County for the sale of County timber.

“Export” means unprocessed timber loaded on a vessel or other conveyance with a foreign destination, or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.

“Performance Bond” means the security required by a County timber sale contract that ensures satisfactory performance of contract requirements by the timber sale purchaser.

“Person” means an individual, partnership, a public or private corporation, an unincorporated association, or any other legal entity. The term includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

“Unprocessed timber” or “Unprocessed County timber” means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. The term does not include timber processed into any one of the following:

1. Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on **four (4)** sides, not intended for remanufacture;
2. Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on **four (4)** sides, not to exceed **twelve (12)** inches (nominal) in thickness;
3. Lumber, construction timbers, or cants for remanufacture, that do not meet the grades referred to in LM 21.010.035(B.2) “Unprocessed timber” ~~(2)~~ above and are sawn on **four (4)** sides, with wane less than **one-quarter (1/4)** of any face, not exceeding **eight and three quarters (8-3/4)** inches in thickness;
4. Chips, pulp, or pulp products;
5. Veneer or plywood;

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6. Poles, posts, or piling cut or treated with preservatives for use as such;
 7. Shakes or shingles;
 8. Aspen or other pulpwood bolts, not exceeding **one hundred (100)** inches in length, exported for processing into pulp;
 9. Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips;
 10. Firewood cut in pieces **forty-eight (48)** inches or less in length.
- C. Criteria for Eligibility to Bid on County Timber Sale Contracts.
1. In addition to all other requirements of law, any person submitting a bid for the purchase of County timber must certify, in a form and manner specified by the County Administrator or Designee, that:
 - a. The person will not export directly or indirectly unprocessed County timber; and
 - b. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.
 2. In addition to all other requirements of law, a person previously not eligible to bid for County timber under LM 21.010.035~~(C.)(1)~~ above may bid for County timber if the person certifies in form and manner specified by the County Administrator or Designee that:
 - a. The person will not export directly or indirectly unprocessed County timber; and
 - b. Unless exempted by LM 21.010.035~~(F)~~ below, the person has not exported unprocessed timber from County lands for a period of not less than **twenty-four (24)** months prior to the date of submission of the bid; and
 - c. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.
- D. Prohibition of Indirect Substitution.
1. In addition to all other requirements of law, no person who is prohibited from purchasing County timber directly from the County may purchase County timber from any other person.
 2. Acquisitions of Western Red Cedar ~~which-that~~ are domestically processed into finished products to be sold into domestic or international markets are exempt from this prohibition.
- E. Prohibition of Export of County Timber. All unprocessed timber, as defined in LM 21.010.035~~(B)~~ above, which originates from County lands, may not be exported.
- F. Surplus Timber. The prohibitions against export contained in this provision shall not apply to specific quantities of grades and species of unprocessed timber originating from County land ~~whichthat~~, at the time of harvest, the United States Secretary of Agriculture or Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States.
- G. Reporting Requirements.

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1. Before the execution of a timber sale contract or the County in any other manner sells County timber, a purchaser of County timber must:
 - a. Notify the County Administrator or Designee of the delivery destination of all timber purchased. Notification will be made in a form and manner described by the County Administrator or Designee; and
 - b. Deliver to the County Administrator or Designee a certification of the eligibility to purchase County timber of any person to whom the purchaser intends to sell, trade, exchange, or otherwise convey the purchased County timber, and their intent to comply with the terms and conditions contained in this section. Certification will be made in a form and manner as prescribed by the County Administrator or Designee. Obtaining certification shall not relieve the purchaser's responsibility to provide the County Administrator or Designee with an accounting of the delivery destination of that timber.
2. Any performance bond required by a County timber sale contract may be retained by the County Administrator or Designee until he or she receives satisfactory notification of County timber delivery destination.
3. Failure to provide the County Administrator or Designee with a final accounting of the delivery destination of County timber will be considered a violation of this provision. Violators shall be subject to the penalties contained in LM 21.010.035(H) below.

H. Remedies for Violation.

1. The County Administrator or Designee shall keep a written record of all persons whom he or she believes have violated the requirements of this provision.
2. A person whose name appears on the record for violations as stated in LM 21.010.035(H)(1) above, and who again violates the requirements of this provision shall be disqualified from bidding on or purchasing County timber for a period of five years following the date of the violation.
3. The County Administrator or Designee may cease operations on and/or terminate any County timber sale contract entered into with a person who has violated the requirements of this provision.
4. The County Administrator or Designee may assess damages for violations of this provision according to the following formula:
$$D = (OSV + AC) - (PR + RSV), \text{ where:}$$
 - a. D = Damages and Expenses.
 - b. OSV = Original Sale Value (timber only - does not include project value). The original sale value shall be adjusted to reflect estimated overruns or underruns on recovery sales.
 - c. AC = Administrative Costs. These costs include both the field and office costs required for the preparation of the defaulted parcel for resale. These costs also include rehabilitation or regeneration delay costs, legal service costs, interest, and other costs allowed by law.
 - d. PR = Payments Received.

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- e. RSV = Remaining Sale Value. The value of the remaining timber shall be determined using the County Administrator or Designee's estimate of remaining volume, multiplied by the dollar values stated in the contract.
- 5. The County Administrator or Designee shall promptly notify the person in writing of any action taken under LM 21.010.035~~(H.)(2)~~, **LM 21.010.035H.(3)**, or **LM 21.010.035H.(4)** above. The notice shall include the nature and date(s) of the violation(s), and where appropriate, the date of contract termination and/or cessation of operations, the period of disqualification, and the amount of assessed damages and how they were calculated. If the person is disqualified, the notice shall also include a statement of the appeal rights and procedure described in paragraph LM 21.010.035~~(H.)(6)~~ below.
- 6. A person who receives notification from the County Administrator or Designee of disqualification may appeal the decision to the Board of County Commissioners.
 - a. A written request must be received by the County Administrator, 125 E. 8th Ave., Eugene, OR 97401, no later than **fifteen (15)** days after the date of the County notification.
 - b. After a timely appeal request is received, the Board of County Commissioners will schedule a public hearing. The appellant will receive at least **fifteen (15)** days' written notice of the hearing.
 - c. Following the hearing, the Board of County Commissioners shall make written findings and issue a written decision. A copy of the findings and decision will be mailed to the appellant. The Board's decision shall be final.
- 7. If a person does not timely appeal a disqualification notice, then the decision of the County Administrator or Designee shall be final.
- 8. The County Administrator or Designee's decision to cease operations, terminate a timber sale contract, or assess damages shall be final.
- I. Log Branding and Marking Requirements.
 - 1. All County timber originating from county timber sales shall be branded with an assigned and registered brand before removal from the sale area. Unless prevented by the size or condition of the wood, one end of all logs originating from County timber sales shall be hammer branded and both ends shall be painted with a paint type and color determined by the County Administrator or Designee.
 - 2. If properly marked County timber is subdivided into smaller pieces for any other purpose than immediate processing, each piece must be branded with a county brand specifically used for this purpose and signifying the unprocessed timber is County timber ineligible for export. The County's export restriction branding hammers can be obtained from the County Administrator or Designee, at cost, upon request.
- J. Timber Sale Contracts. All County timber sale contracts shall contain the following provision:

"The Federal Forest Resources Conservation and Shortage Relief Act of 1990" and state law prohibits the export of unprocessed timber originating from County lands. Violations of that Act, ORS 526.801 to **ORS** 528.831 or the Lane County Log Export Regulations may result in termination of this contract, assessment of damages, disqualification from bidding on or purchasing County timber for up to five **(5)** years, or federal or state legal action."

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K. Enforcement.

1. Investigation of suspected violations of these rules and/or surveillance of unprocessed timber in transit and at port facilities may be conducted by the County Administrator or Designee, or contracted by the County Administrator or Designee to other County, state or federal agencies. Any alleged violations of the export prohibition provisions of these log export regulations will be referred by the County Administrator or Designee to the appropriate federal or state agency for prosecution or other legal action.
2. Once the County Administrator makes a final decision that assesses damages, the full amount of damages shall be immediately due and payable. If payment is not made within **thirty (30)** days, the County may enforce payment through civil legal proceedings.

(Order 95-9-20-2, 9.20.95; Order 11-12-14-1, 12.14.11)

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Chapter 21 - CONTRACT POLICIES

21.005 - INSURANCE

21.005.005 - Generally.

- A. The County Risk Manager is delegated authority to establish standard insurance requirements, forms, and procedures for all County contracts, and will post such requirements, forms, and procedures on the County Counsel intranet web page.
- B. For any contract involving work upon a County facility or County-owned property, and in contracts involving a significant risk of liability to the County, the department handling the contract must consult with the Risk Manager prior to advertising for bid or proposals.
- C. Limits and types of coverage will be established by the Risk Manager based upon the risk and exposure involved in the performance of the contract. Generally, liability insurance limits will not be less than those established for the current year in the Oregon Tort Claims Act, ORS Chapter 30.
- D. The County Risk Manager may, at the Risk Manager's sole discretion, waive or reduce insurance requirements and amounts for a specific contract.

(Order 85-6-12-13, 6.12.85; Order 05-12-14-9, 1.1.06; Order 11-12-14-1, 12.14.11)

21.010 - REAL PROPERTY

21.010.005 - Real Property Acquisition, Management and Disposition Policy.

- A. The Lane County Board of Commissioners has final authority on all real property matters, except as such authority is delegated in this chapter.
- B. The Office of County Administration is responsible for acquisition and disposal of real property interests for the County, as provided in this section. In carrying out these duties, the Office will:
 - 1. Acquire property through purchase, lease, or exchange.
 - 2. Manage County-owned, County-rented and tax-foreclosed real property.
 - 3. Dispose of surplus real property.
 - 4. Maintain records on County-owned and County-occupied property interests.
 - 5. Properly file and record all real property-related transactions.
 - 6. File documents necessary to maintain property tax exemptions for County-owned or County-leased property.
 - 7. Represent the County's interest in all property matters in accordance with applicable Federal, State and local laws, rules and regulations.
- C. The Department of Public Works is responsible for acquisition and disposal of real property interests for Public Works projects, including real property interest or parcels of land acquired through the General Road Fund, Solid Waste Management Fund, or Parks Fund. In carrying out these duties, the Department will:
 - 1. Acquire property through purchase, lease, or exchange.

2. Manage County-owned and County-leased real property under the Department's authority.
 3. Dispose of surplus real property held under the authority of the Department under this section.
 4. Maintain records on County-owned and County-occupied real property interests, rights-of-way and parcels of land under the Department's authority.
 5. Properly file and record all real property all transactions in all such real property.
 6. File documents necessary to maintain property tax exemptions for County-owned or County-leased property.
 7. Represent the County's interest in all such matters in accordance with applicable Federal, State and local laws, rules and regulations. The Board shall have final authority on all property matters related to the General Road Fund, except as delegated elsewhere in this chapter.
- D. Pursuant to ORS 93.808, authority to approve the conveyance and recordation of an instrument conveying title or interest to Lane County is delegated to:
1. The Right-of-Way Manager or Property Management Officer for transactions not greater than \$50,000 in value.
 2. The Department Director for transactions not greater than \$100,000 in value.
 3. The County Administrator for amounts not greater than \$250,000 in value.
 4. The Board of County Commissioners for transactions greater than \$250,000 in value.
- E. No action of Lane County officers, employees, or agents in acquiring, managing or disposing of real property will be binding upon Lane County, if undertaken through fraud, breach of fiduciary duty or through purported exercise of powers not specifically delegated by law.

(Order 01-5-30-9, 5.30.01; Order 03-8-20-1, 8.20.03)

21.010.010 - Real Property Acquisition.

Acquisition of real property interests for Public Works projects will be negotiated by the Department of Public Works in accordance with applicable Federal, State and local rules and regulations. The Department must establish such internal procedures as are necessary to insure that independent appraisals and unbiased reviews are used to determine fair market value for property acquisition for such purposes. Funding for acquisition of real property interests for Public Works projects will be included in normal budgeting procedures and as part of the project costs projected through the Public Works Five (5) Year Capital Improvements Program.

(Order No. 98-4-1-11, 4.1.98; Order 03-8-20-1, 8.20.03)

21.010.015 - Management of County-Owned or County-Utilized Real Property.

- A. It is the policy of the Board to utilize County-owned real property as a revenue source where possible, and to keep such property on the tax rolls where reasonable to do so.
- B. The Office of County Administration is responsible for the lease or rental of County-owned land and buildings.

- C. The Office of County Administration is delegated authority to negotiate rental agreements for County-owned or County-leased land and buildings, subject to the limitations on such contracts contained in LM Chapter 20. The Department is also responsible for collection of rents and to manage rental properties.
- D. The Office of County Administration is authorized to negotiate caretaker agreements, where rent of County-owned or County-leased property is included as part of remuneration for services rendered by the occupant, subject to established contract procedures.
- E. The Office of County Administration is delegated authority to negotiate any license for the utilization of County-owned real property, subject to established contract procedures, the following conditions and such other conditions as are deemed necessary by the Department:
 - 1. All licenses to utilize County-owned real property are subject to thirty (30) days termination, unless a shorter term is specified.
 - 2. A statement must be signed by the person utilizing County-owned real property, County rights-of-way or County real property acquired through the General Road Fund holding the County harmless from all claims arising out of that person's license, including liability for any ad valorem taxes arising as a result of the license.
- F. Leasing of real property for County use must be consistent with the needs of the County department requiring the leased property and in keeping with established space allocation procedures. Lease agreements are subject to the established contract review and execution procedures contained in LM Chapter 20.
- G. The Department of Public Works is delegated authority to lease, license, or enter into caretaker agreements relating to County rights-of-way or real property acquired from the General Road Fund in the same manner as provided in LM 21.010.015C through LM 21.010.015F above.

(Order 98-4-1-11, 4.1.98)

21.010.020 - Disposition of County-Owned Real Property.

- A. Subject to deed restrictions and Federal and State laws that may limit the marketability or value of a property, it is the policy of Lane County to dispose of County-owned lands not needed for public purposes at market value. If a governmental agency expresses a desire to acquire a parcel of County-owned land for a public purpose within a reasonable period of time after acquisition by the County, the County Administrator may determine that the parcel be retained by the County for up to two (2) years without further order of the Board.
- B. The following procedures must be followed in disposition of County-owned land:
 - 1. Real Property Officers, or other staff members, as acting under authority delegated by the County Administrator or Director of the Department of Public Works, are authorized to negotiate the sale, subject to Board approval, of real property having a true cash value of \$20,000 or less, if the County has no present or future need of the property, as determined by the Department. Such negotiations may only occur after the property has been offered for sale through procedures defined in ORS Chapter 275.
 - 2. The County Administrator is authorized to negotiate the sale of real property having a true cash value of \$50,000 or less, if the County has no present or future need of the property as determined by the County Administrator, subject to Board approval. Such negotiations may only

occur after the property has been offered for sale through procedures defined in ORS Chapter 275.

3. County-owned land acquired in any manner whatsoever may be sold in accordance with the provisions of ORS Chapter 275, when such sale is deemed by the Board to be in the best interests of Lane County. The Office of County Administration is responsible to prepare the Board Order directing the Sheriff to conduct the sale in accordance with ORS 275.110, and to deliver a certified copy thereof, together with the information required by ORS 275.120 to the Sheriff. The Sheriff will then conduct the sale in accordance with ORS Chapter 275 and make return to the Board. Upon receiving a copy of the return, the Department will prepare the deed and other relevant documents for signature by the Board Chair.
 4. Notwithstanding the provisions of LM 21.010.020B.1 through LM 21.010.020B.3, County-owned land may be sold in accordance with the provisions of ORS 278.030 or ORS 275.225, when such sale is deemed by the Board to be in the best interests of Lane County, upon action of the Board.
 5. The Department of Public Works is delegated authority to negotiate or sell excess County rights-of-way or real property acquired from the General Road Fund in the same manner as provided in LM 21.010.020B.1 through LM 21.010.020B.4 above.
- C. Conveyance of County-owned property acquired through tax foreclosure will be made by quitclaim deed without title insurance, except as may be negotiated with purchaser at the purchaser's expense. Other conveyances from the County will normally be made by bargain and sale deed, with the County providing title insurance, as negotiated with the purchaser.
- D. Real property acquired by tax foreclosure may be sold to the record owner or a contract purchaser of record as provided in ORS 275.180, when any of the following conditions exist:
1. The property was placed on the foreclosure list as a result of an error or omission in the records of the Department of Assessment and Taxation.
 2. The property was the residence of the record owner or contract purchaser of record at the time of the foreclosure.
 3. The record owner or contract purchaser of record suffered from a mental or physical incapacity or inability during the foreclosure and redemption period, satisfactory evidence of which is presented to the Board of Commissioners.

(Order 98-4-1-11, 4.1.98)

21.010.025 - Donation of Tax-Foreclosed Property for Low-Income Housing, Social Services or Child Care.

- A. Findings.
1. ORS 271.330(2) specifically permits counties to transfer county-owned property, tax-foreclosed or otherwise, to municipal or nonprofit corporations, with or without consideration, for the purpose of providing low-income housing, social services or child care. ORS 456.355 through ORS 456.370 further provides that counties have certain powers, including the power to convey property with or without consideration, to certain entities including nonprofit corporations, in order to aid in the development of housing projects.
 2. The Board believes that safe, sanitary, affordable housing is essential to the stability and vitality of the County.

3. While property remains in County ownership as a result of tax-foreclosure, it fails to contribute to the tax revenue stream for taxing districts at the same time it requires maintenance at County expense.
4. The Board believes it is of much greater benefit to County residents to have such properties developed and used to provide low-income housing than to remain unused in County ownership.

B. Definitions.

"Low-Income Family" means a family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined annually by HUD.

"Municipal Corporation" means any governmental organization duly organized under the laws of the State of Oregon that has as one of its powers the authority to provide housing for low-income individuals or families.

"Nonprofit Corporation" means any corporation not for profit organized under ORS Chapter 65 for the purpose of undertaking, constructing, or operating decent, safe and sanitary housing for low-income individuals or families.

- C. Notification of Availability of Tax-Foreclosed Property. When the foreclosed property is deeded to the County, the County Real Estate Division responsible for managing such properties (hereinafter "Real Estate Division") shall notify the cities in Lane County, the Housing Authority and Community Services Agency of Lane County, and such nonprofit corporations that request notice, that properties are eligible for transfer under this program. The Real Estate Division shall not schedule Sheriff's sale on these properties until sixty (60) days after the notice is mailed. A municipal or nonprofit corporation may request the Real Estate Division withhold from Sheriff's sale one or more specific properties for a period not exceeding six (6) months to allow time for the requesting entity to consider making a proposal under LM 21.010.025(D) below.

D. Procedure for Requesting Transfer.

1. A municipal or nonprofit corporation may request transfer of tax foreclosed property owned by the County at any time. The request shall be in writing, specifically identifying the property and describing the proposed use.
2. The Real Estate Division shall in a timely manner, investigate the proposal and prepare a report for the Housing Policy Board, or other entity as designated by the Board, which covers the identity of the requesting entity; the proposed use of the property; the entity's ability (financial and otherwise) to accomplish the proposal; the location of the property and its market value and zoning; the taxes owing at the time the property was deeded to the County; and any costs incurred by the County to date in managing the property.
3. The requesting entity shall cooperate with the Real Estate Division in the investigation, including making available as necessary such documentation as financial statements and development plans. The Real Estate Division shall work with staff to the Housing Policy Board (HPB) in conducting the investigation and preparing the report.
4. The HPB shall review the report, direct further review as deemed necessary and make a recommendation to the Board. If the HPB's recommendation is to deny the request, the County Commissioner(s) on the HPB shall orally convey the recommendation to the Board and no further actions shall take place on the request unless directed by the Board.
5. If the HPB's recommendation is to approve the request, the Real Estate Division shall schedule a public hearing on the request, as covered by ORS 271.330 and ORS 456.355 through ORS 456.370. The Division shall duly publish notice of the hearing on the transfer for two (2)

successive weeks, before the hearing, and shall prepare the ordinance and appropriate agenda materials.

6. At the conclusion of the hearing, the Board shall make a decision as to whether to grant or deny the request, based solely on its determination and judgment as to what is in the best interest of the public. Approval of any request shall be on such terms and conditions as deemed appropriate by the Board, and may be for consideration or for no consideration.
- E. Transfer. If approved, the transfer of title shall occur by quitclaim deed, which may provide, if so directed by the Board, that title shall revert to the County if the property ceases to be used for low-income housing purposes during a specified time period. If the requesting entity desires a bargain and sale deed, such a deed shall be provided if a title report from a title insurance company selected by the County shows clear title and the requesting entity pays for the title insurance policy; the deed may also include a reversionary clause. Terms and conditions imposed by the Board or at its direction not appropriate to a deed shall be contained in a development agreement between the County and the entity. These may include conditions of development appropriate to the project, and elements and consequences of default.
- F. Fees. There is no fee for a request pursuant to LM 21.010.025C. The requesting entity shall tender with its request pursuant to LM 21.010.025D a non-refundable administrative fee of four hundred dollars (\$400) for processing the request. In addition, the requesting entity shall pay for the out-of-pocket costs of the transfer, including but not limited to the publication costs, and recording fees.
- G. Other Properties/Other Uses. The Board recognizes that ORS 271.330 permits donation of property acquired in some manner other than through tax foreclosure, and further that it permits donation to municipal or nonprofit corporations for social services or childcare purposes. Should a municipal or nonprofit corporation desire to have the Board consider donation of property obtained by any manner for statutorily identified purposes, the same process as described above should generally be followed. The ordinance shall specify the public benefit of the transfer, any restrictions deemed reasonable by the Board, any necessary repayment of constitutionally dedicated funds used in the acquisition or improvement of the property and the source of repayment, and the appraised value of the property if it is not tax-foreclosed property.
- H. The provisions of LM 21.010.025A through LM 21.010.025G above are discretionary and not mandatory, despite the use of directory language ("shall" or "will"). Regardless of these provisions, the County specifically reserves the right to schedule a Sheriff's sale or sell any particular piece(s) of property at such time and in such manner as the Board deems in the County's best interest.

(Order 93-3-9-6, 3.9.93)

21.010.030 - Designation of County Forests, Parks, and Recreational Areas

- A. Upon the completion of those requirements set forth in LM 21.010.025, the County Administrator or Designee may, in consultation with the Parks Division Manager, prepare a list of foreclosed properties to be designated and set aside for county forests, parks, and recreation areas. Only properties outside the corporate limits of a city shall be considered for inclusion on the property list.
- B. In preparing the property list, due consideration shall be given to at least the following:
 1. Environmental issues;
 2. Overall benefit to the County;
 3. Financial needs of the affected departments.

- C. The property list shall be brought before the Board of County Commissioners who may, by order, designate and set aside any such properties for county forest, public park, or recreational area uses. Any properties so set aside shall thereafter be managed by the Parks Division.
- D. Property designated under LM 21.010.030C may thereafter be alienated, sold, or conveyed pursuant to ORS 275.330 following the statutory process and requirements.
- E. If a designated property is alienated, sold, or conveyed pursuant to ORS 275.330(2), the proceeds shall be held for maintenance and improvement of existing park and recreation lands or future acquisition of lands to be set aside for park or recreational purposes.

(Order 05-2-2-2, 2.2.05)

21.010.035 - Sale of County Timber & Log Export Regulations

- A. Subject to ORS Chapter 275 and other Federal and State Laws it shall be the policy of Lane County to sell County Timber to the highest bidder.
- B. Definitions. As used in this subchapter, the following words and phrases shall mean:

“County Lands” means lands owned or managed by Lane County.

“County Timber” mean any timber owned or managed by Lane County.

“County Timber Sale Contract” means any contract with Lane County for the sale of County timber.

“Export” means unprocessed timber loaded on a vessel or other conveyance with a foreign destination, or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.

“Performance Bond” means the security required by a County timber sale contract that ensures satisfactory performance of contract requirements by the timber sale purchaser.

“Person” means an individual, partnership, a public or private corporation, an unincorporated association, or any other legal entity. The term includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

“Unprocessed timber” or “Unprocessed County timber” means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. The term does not include timber processed into any one of the following:

1. Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four (4) sides, not intended for remanufacture;
2. Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on four (4) sides, not to exceed twelve (12) inches (nominal) in thickness;
3. Lumber, construction timbers, or cants for remanufacture, that do not meet the grades referred to in LM 21.010.035B.2 “Unprocessed timber” above and are sawn on four (4) sides, with wane less than one-quarter (1/4) of any face, not exceeding eight and three quarters (8-3/4) inches in thickness;

4. Chips, pulp, or pulp products;
 5. Veneer or plywood;
 6. Poles, posts, or piling cut or treated with preservatives for use as such;
 7. Shakes or shingles;
 8. Aspen or other pulpwood bolts, not exceeding one hundred (100) inches in length, exported for processing into pulp;
 9. Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips;
 10. Firewood cut in pieces forty-eight (48) inches or less in length.
- C. Criteria for Eligibility to Bid on County Timber Sale Contracts.
1. In addition to all other requirements of law, any person submitting a bid for the purchase of County timber must certify, in a form and manner specified by the County Administrator or Designee, that:
 - a. The person will not export directly or indirectly unprocessed County timber; and
 - b. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.
 2. In addition to all other requirements of law, a person previously not eligible to bid for County timber under LM 21.010.035C.1 above may bid for County timber if the person certifies in form and manner specified by the County Administrator or Designee that:
 - a. The person will not export directly or indirectly unprocessed County timber; and
 - b. Unless exempted by LM 21.010.035F below, the person has not exported unprocessed timber from County lands for a period of not less than twenty-four (24) months prior to the date of submission of the bid; and
 - c. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.
- D. Prohibition of Indirect Substitution.
1. In addition to all other requirements of law, no person who is prohibited from purchasing County timber directly from the County may purchase County timber from any other person.
 2. Acquisitions of Western Red Cedar that are domestically processed into finished products to be sold into domestic or international markets are exempt from this prohibition.
- E. Prohibition of Export of County Timber. All unprocessed timber, as defined in LM 21.010.035B above, which originates from County lands, may not be exported.
- F. Surplus Timber. The prohibitions against export contained in this provision shall not apply to specific quantities of grades and species of unprocessed timber originating from County land that, at the time of harvest, the United States Secretary of Agriculture or Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States.
- G. Reporting Requirements.

1. Before the execution of a timber sale contract or the County in any other manner sells County timber, a purchaser of County timber must:
 - a. Notify the County Administrator or Designee of the delivery destination of all timber purchased. Notification will be made in a form and manner described by the County Administrator or Designee; and
 - b. Deliver to the County Administrator or Designee a certification of the eligibility to purchase County timber of any person to whom the purchaser intends to sell, trade, exchange, or otherwise convey the purchased County timber, and their intent to comply with the terms and conditions contained in this section. Certification will be made in a form and manner as prescribed by the County Administrator or Designee. Obtaining certification shall not relieve the purchaser's responsibility to provide the County Administrator or Designee with an accounting of the delivery destination of that timber.
2. Any performance bond required by a County timber sale contract may be retained by the County Administrator or Designee until he or she receives satisfactory notification of County timber delivery destination.
3. Failure to provide the County Administrator or Designee with a final accounting of the delivery destination of County timber will be considered a violation of this provision. Violators shall be subject to the penalties contained in LM 21.010.035H below.

H. Remedies for Violation.

1. The County Administrator or Designee shall keep a written record of all persons whom he or she believes have violated the requirements of this provision.
2. A person whose name appears on the record for violations as stated in LM 21.010.035H.1 above, and who again violates the requirements of this provision shall be disqualified from bidding on or purchasing County timber for a period of five years following the date of the violation.
3. The County Administrator or Designee may cease operations on and/or terminate any County timber sale contract entered into with a person who has violated the requirements of this provision.
4. The County Administrator or Designee may assess damages for violations of this provision according to the following formula:

$D = (OSV + AC) - (PR + RSV)$, where:

- a. D = Damages and Expenses.
- b. OSV = Original Sale Value (timber only - does not include project value). The original sale value shall be adjusted to reflect estimated overruns or underruns on recovery sales.
- c. AC = Administrative Costs. These costs include both the field and office costs required for the preparation of the defaulted parcel for resale. These costs also include rehabilitation or regeneration delay costs, legal service costs, interest, and other costs allowed by law.
- d. PR = Payments Received.
- e. RSV = Remaining Sale Value. The value of the remaining timber shall be determined using the County Administrator or Designee's estimate of remaining volume, multiplied by the dollar values stated in the contract.

5. The County Administrator or Designee shall promptly notify the person in writing of any action taken under LM 21.010.035H.2, LM 21.010.035H.3, or LM 21.010.035H.4 above. The notice shall include the nature and date(s) of the violation(s), and where appropriate, the date of contract termination and/or cessation of operations, the period of disqualification, and the amount of assessed damages and how they were calculated. If the person is disqualified, the notice shall also include a statement of the appeal rights and procedure described in paragraph LM 21.010.035H.6 below.
 6. A person who receives notification from the County Administrator or Designee of disqualification may appeal the decision to the Board of County Commissioners.
 - a. A written request must be received by the County Administrator, 125 E. 8th Ave., Eugene, OR 97401, no later than fifteen (15) days after the date of the County notification.
 - b. After a timely appeal request is received, the Board of County Commissioners will schedule a public hearing. The appellant will receive at least fifteen (15) days' written notice of the hearing.
 - c. Following the hearing, the Board of County Commissioners shall make written findings and issue a written decision. A copy of the findings and decision will be mailed to the appellant. The Board's decision shall be final.
 7. If a person does not timely appeal a disqualification notice, then the decision of the County Administrator or Designee shall be final.
 8. The County Administrator or Designee's decision to cease operations, terminate a timber sale contract, or assess damages shall be final.
- I. Log Branding and Marking Requirements.
1. All County timber originating from county timber sales shall be branded with an assigned and registered brand before removal from the sale area. Unless prevented by the size or condition of the wood, one end of all logs originating from County timber sales shall be hammer branded and both ends shall be painted with a paint type and color determined by the County Administrator or Designee.
 2. If properly marked County timber is subdivided into smaller pieces for any other purpose than immediate processing, each piece must be branded with a county brand specifically used for this purpose and signifying the unprocessed timber is County timber ineligible for export. The County's export restriction branding hammers can be obtained from the County Administrator or Designee, at cost, upon request.
- J. Timber Sale Contracts. All County timber sale contracts shall contain the following provision:
- "The Federal Forest Resources Conservation and Shortage Relief Act of 1990" and state law prohibits the export of unprocessed timber originating from County lands. Violations of that Act, ORS 526.801 to ORS 528.831 or the Lane County Log Export Regulations may result in termination of this contract, assessment of damages, disqualification from bidding on or purchasing County timber for up to five (5) years, or federal or state legal action."
- K. Enforcement.
1. Investigation of suspected violations of these rules and/or surveillance of unprocessed timber in transit and at port facilities may be conducted by the County Administrator or Designee, or contracted by the County Administrator or Designee to other County, state or federal agencies. Any alleged violations of the export prohibition provisions of these log export regulations will be

referred by the County Administrator or Designee to the appropriate federal or state agency for prosecution or other legal action.

2. Once the County Administrator makes a final decision that assesses damages, the full amount of damages shall be immediately due and payable. If payment is not made within thirty (30) days, the County may enforce payment through civil legal proceedings.

(Order 95-9-20-2, 9.20.95; Order 11-12-14-1, 12.14.11)