

TOWN OF PORTER

TAX-ACQUIRED PROPERTY DISPOSITION POLICY

Article 1. GENERAL

1.1 The purpose of the Policy is to establish and direct the procedures for the management and disposition of real estate acquired due to the nonpayment of property taxes, pursuant to 36 M.R.S. §§ 942 and 943, as amended. Nothing in this policy is intended to or shall be interpreted to give additional substantive or procedural rights to owners of properties forfeited to the Town of Porter for the non-payment of taxes.

Article 2. MANAGEMENT OF TAX ACQUIRED PROPERTY PENDING FINAL DISPOSITION

2.1 Procedure Following Foreclosure of Tax Lien Mortgage

2.1.1 Following the foreclosure of any tax lien mortgage, the Municipal Officers shall, by first class mail, notify the last known owner of record that his or her right to redeem the tax lien mortgage securing the collection of property taxes has expired, that the tax lien mortgage has foreclosed, and that ownership of the property is vested in the Town. The notification shall also advise the last known owner that the property will be disposed of in accordance with this Policy, a copy of which shall be included with the notification.

2.1.2 The Municipal Officers shall annually prepare a list of properties acquired due to the non-payment of property taxes. The list shall label the properties into four categories: (1) owner occupied; (2) non-owner occupied; (3) vacant land; and (4) commercial/industrial.

2.1.3 The Municipal Officers, shall determine the proper use of all tax-acquired property in the Town, including but not limited to: (1) retaining the property; (2) selling the property; or (3) if applicable, offering the former owner the one-time opportunity to purchase the property back from the Town.

2.2 Occupants or Tenants

2.2.1 The Municipal Officers shall determine when and if any occupants or tenants of tax-acquired property shall be required to vacate a tax acquired property and are authorized to proceed with all required legal actions to enforce occupants or tenants to peacefully quit the premises.

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2.3 Retained Ownership

2.3.1 If the Municipal Officers determine that it is in the best interests of the Town to retain a parcel of tax-acquired property, the Municipal Officers shall place a warrant article on the next Town Meeting Warrant, asking if the Town wishes to retain such parcel of a specific articulated purpose. If this warrant article is approved by Town Meeting, the Municipal Officers may pursue an action for equitable relief to clear title to the property in accordance with the provisions of 36 M.R.S. § 946, as amended.

2.3.2 The Municipal Officers shall cause the tax-acquired property retained to be managed and insured as it would other municipal property.

2.4 Insurance on Vacant Tax Acquired Property

2.4.1 The Municipal Officers shall, in the event that a tax acquired property is or becomes vacant, secure and maintain insurance coverage for the property with a comprehensive general liability insurance policy for the property with coverage amounts equal or exceeding the limits on liability under the Maine Tort Claims Act, codified at 14 M.R.S. § 8101 et seq. Such coverage shall be procured as soon as is practicable, and in no case later than sixty (60) days after the tax acquired property becomes vacant.

Article 3. ONE-TIME OPPORTUNITY AND PROCESS TO REACQUIRE TAX-ACQUIRED PROPERTY BY FORMER OWNER OF A SINGLE-FAMILY RESIDENCE OCCUPIED BY THE TAXPAYER

3.1. Former Owners of single-family residences, occupied by the taxpayer, shall have the option to repurchase their former property from the Town, in accordance with this Article.

3.2 Within ten (10) business days after the foreclosure of the Town's tax lien mortgage, the Municipal Officers shall send notice of the one-time opportunity and process to reacquire tax-acquired property to the taxpayer by first class mail.

3.3 To elect the opportunity to redeem and reacquire the property, the former owner must inform the Municipal Officers, in writing, of his/her/its agreement within thirty (30) days of the date of the Municipal Officers' notification letter, to the following terms:

3.3.1 Confirmation that the Town holds valid title to the property under the foreclosure process;

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- 3.3.2 Agreement to make payment to the Town within ninety (90) days according to the following terms:
 - 3.3.2.1 Payment in full of the amount of all taxes and interest subject to liens and for all years through and including taxes that would have been assessed to the subject property following the tax lien foreclosure;
 - 3.3.2.2 Payment in full of the Town's cost of administering and filing the liens, including the filing of notices and registry costs, deed and discharge fees, any insurance coverage, and costs of securing or maintaining the property; and
 - 3.3.2.3 Payment in full of an administrative fee in the amount of \$750.00 to cover the Town's legal costs and the cost of preparing and filing the release deed.
 - 3.3.3 Payment shall be by certified funds, or cash, but not by personal check.
 - 3.3.4 Upon full, timely, and satisfactory completion of all requirements and payment under this Section, the subject property shall be conveyed to the former owner by municipal release deed. The property description in the deed shall match that in the corresponding tax lien certificate(s).
- 3.4 The Municipal Officers shall also send notice of sale of tax acquired property to the Former Owners of each tax acquired property to be sold and all abutting property owners.

Article 4. SALE OR TRANSFER OF TAX ACQUIRED PROPERTY; SPECIAL SALES PROCESS

- 4.1 In the event that the Municipal Officers determine that the best interests of the Town will be served to offer the tax-acquired property for sale, the Municipal Officers shall determine the method of sale. Methods may include, but are not limited to, brokerage sale, negotiated sale, auction, solicitation of request for proposals, or public sealed bid process. If the public sealed bid process is used, the process set forth in Article 5 shall be followed.
- 4.2 Regardless of the method of sale chosen, if the Municipal Officers choose to sell tax acquired property where the tax lien certificate was recorded in the Oxford County Registry of Deeds on or after December 13, 2018, the following process must be followed.

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- 4.2.1 No fewer than ninety (90) days before the Municipal Officers plan to proceed with the sale of tax-acquired property, the Municipal Officers shall send a notice to the former owner of the tax acquired property, notifying the former owner of their right to apply for the special sale process, pursuant to 36 M.R.S. § 943-C, as amended, as well as the appropriate application.
- 4.2.2 The former owner shall have thirty (30) days after receipt of the application to return it, along with all supporting documentation, to the Municipal Officers.
- 4.2.3 If an application is returned, the Municipal Officers shall review the application in executive session, in order to determine whether, on the date the Town's tax lien certificate was recorded, the following criteria applied:
- 4.2.3.1 The tax-acquired property was owned by at least one person who was at least 65 years old and who occupied the real estate as a "homestead" as defined in 36 M.R.S. § 681(2);
- 4.2.3.2 The former owner's annual income, as defined in 36 M.R.S. § 5219-KK(1)(D) was less than \$40,000.00 after medical expenses are deducted, for the calendar year immediately preceding the calendar year in which the Town's tax lien mortgage was foreclosed;
- 4.2.3.3 The former owner's "liquid assets," meaning "something of value available to an individual that can be converted to cash in three months or less," and which includes bank accounts, certificates of deposit, money market or mutual funds, life insurance policies, stocks and bonds, lump-sum payments, and inheritances, was less than \$50,000.00 (or \$75,000.00 for a family of two or more persons) during the calendar year immediately preceding the calendar year in which the Town's tax lien mortgage was foreclosed.
- 4.2.3.4 Within thirty (30) days of receipt of a completed application, the Municipal Officers shall notify the former owner/applicant of whether or not they are eligible for the special sales process. Such notice must also inform the former owner/applicant if his/her/its right to appeal this decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- 4.2.4 If the former owner is determined to be eligible for the special sales process based on the criteria in Sections 4.2.3.1-4.2.3.3, above, the Municipal Officers shall dispose of the tax acquired property as follows:

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- 4.2.4.1 The Municipal Officers shall list the tax-acquired property with a licensed real estate broker. Said broker may not be an elected or appointed official or an employee of the Town.
- 4.2.4.2 The tax acquired property must be sold at a price equal to or greater than fair market value, or alternatively, the price at which the broker thinks it likely that the property would sell at after six (6) months of listing.
- 4.2.5 If the tax acquired property is sold following the special sales process, the Town shall remit to the former owner the sale proceeds in excess of: (1) taxes owed on the tax acquired property, including taxes that would have been assessed between the foreclosure of the Town's tax lien mortgage and the sale; (2) accrued interest, fees (including broker fees); and (3) other expenses incurred by the Town in the process of selling the tax acquired property, including reasonable attorney's fees.
- 4.2.6 If the Municipal Officers are either unable to find a licensed broker willing to list the tax acquired property, or the broker retained is unable to sell the property within six months of listing, the Municipal Officers may sell the property pursuant to whichever method they deem to be in the best interests of the Town.

Article 5. PUBLIC SEALED BID

- 5.1 The Municipal Officers shall offer properties they deem are best disposed of by sale through a public sale under the following sale terms:
- 5.2 Properties to be sold by public sealed bid shall be cataloged and summarized in a Notice of Sale which includes the tax map and lot number of the property, street address, property description, most recent assessed value, the Minimum Bid Price, as defined below, the amount of the bid deposit, the date bids are due, and a summary of other terms of the public sale.
 - 5.2.1 The Minimum Bid Price shall be a sum no less than:
 - 5.2.1.1 The amount of all taxes and interest subject to liens and for all years through and including taxes assessed for the current year as would have been assessed to the subject property following the tax lien foreclosure;

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- 5.2.1.2 The Town's cost of administering and filing the liens, including the filing of notices and registry costs, deed and discharge fees, any insurance coverage, and costs of securing or maintaining the property; and
- 5.2.1.3 An administrative fee in the amount of \$750.00 to cover the Town's legal costs and the cost of preparing and filing the release deed.
- 5.2.1.4 In no event shall the Municipal Officers be prohibited from setting the Minimum Bid Price *higher* than the sum of Sections 5.2.1.1-5.2.1.3, above, if the Municipal Officers determine this to be in the best interests of the Town.
- 5.2.2 The Notice of Sale shall be posted and advertised for three successive weeks in Your Weekly Shopping Guide or other local publication.
- 5.2.3 The Notice of Sale shall also be sent to the former owner of the property and the property owners whose property immediately abuts the property to be sold; provided, however, that failure to receive the notice by either the prior owner(s) or abutters shall not invalidate the sale.

5.3 Bid Responses

- 5.3.1 The Municipal Officers shall follow and require persons submitting bid responses in the public bid sale process described herein to submit and comply with the following additional terms and conditions:
 - 5.3.1.1 Bidders must at the time they submit a bid include a completed bid sheet for each parcel bid upon. Bid sheets shall include the description (by Tax Map and Lot#) of the property being bid upon, the bidder's intended use of the property, and a firm bid amount in United States Dollars. Conditional bids are not allowed and will not be accepted.
 - 5.3.1.2 Bidders must at the time they submit a bid include a separate bid deposit for each parcel bid upon in the form of a certified check, or money order drawn to the Town of Porter as payee in an amount equal to or exceeding 10% of the bid price for each parcel bid upon. Failure to submit bid deposits in the proper amount or form of payment in the bid package will cause the bid to be automatically rejected. In addition, a self-addressed stamped envelope is to be included in order to return said deposit to the non-winning bidders.

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- 5.3.1.3 Bidders must deliver completed bid sheets and bid deposits to the Town for each property bid upon in a single and sealed plain envelope marked only on the outside of the envelope "Tax Acquired Property Bid" and with the identification of the specific parcel or parcels identification on the exterior of the envelope.
- 5.3.1.4 All bid responses must be either hand delivered to the municipality, or mailed. If mailed, the bid response envelope shall be enclosed within a second envelope addressed to the Board of Selectmen, Town of Porter, 71 Main Street, Porter, Maine 04068.
- 5.3.1.5 As bids are received, the Town Office will note the time and date of receipt on the bid envelope. To qualify all bids must be received on or before the deadline and date stated in the Notice of Sale.

5.4 Acceptance of Bids; Limitations

- 5.4.1 The Municipal Officers may in their sole discretion accept or reject any bids that they determine are or are not in the best interests of the Town, but in any case, may not accept any bid for an amount less than the Minimum Bid Price.

5.5 Right to Accept or Reject Bids

- 5.5.1 Except where Municipal Officers determine that considerations other than price shall control, bids shall be awarded to the highest bidder who can close in cash within 30 days of the bid award.
- 5.5.2 The Municipal Officers shall notify, via mail, any successful bidder.

5.6 Rejection of All Bids or No Bids

- 5.6.1 The Municipal Officers reserve the right to reject any or all bids if doing so is deemed to be in the best interests of the Town.

5.7 Credit and Return of Bid Deposits

- 5.7.1 The Municipal Officers shall credit successful bidders bid deposits to the purchase price of the related property and after completion of a sale, return bid deposits to the unsuccessful bidders (within 14 days of bid opening)

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5.8 Payment and Completion of Sales

- 5.8.1 Successful bidders must complete the sale and transfer of the property bid upon by paying the balance due and completing the transfer within nine (9) calendar days following the date when a bid is accepted. Payment must be received in form of cash or certified check in the office by noon on the 9th day.
- 5.8.2 In the event that a successful bidder fails to complete a sale within nine (9) days after a bid is accepted, the Town will retain the bid deposit and the Municipal Officers may thereafter offer the property to the next highest bidder or pursue the process set forth above.
- 5.8.3 In the event other bidders become successful bidders due to the default of a bidder, the other bidders must complete the sale within nine (9) days or similarly will forfeit their bid deposits.
- 5.8.4 If no successful bidder is able to complete the sale within nine (9) days, the Municipal Officers may dispose of the property by an alternative method, or alternatively, may choose to retain the Property for public purposes.

5.9 One Time Extension

- 5.9.1 The Municipal Officers may, subject to a show of good faith and circumstances reasonably beyond the control of a bidder, extend the time limit to complete a sale for a one-time-only additional 15 days during which extended period the bidder must complete the sale.

5.10 Transfer Documents and Purchaser's Release

- 5.10.1 The Municipal Officers will convey the Town's tax acquired interests in a property under Municipal Release Deed and as conditions of such transfer, successful bidders shall agree to be responsible for the proper removal and disposition of any and all personal property at the property and for the peaceful proper removal of any occupants remaining at a purchased tax-acquired property and in furtherance thereof, in writing, indemnify and hold harmless the Town from any and all claims arising out of the sale and transfer of the tax-acquired property.

5.11 Transfer of Ownership after April 1st

- 5.11.1 If the Municipal Release Deed is filed for any property after April 1st and before the date of commitment for the current tax year, the successful bidder will be responsible for all property taxes for that year once committed.

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Article 6. WAIVER OF FORECLOSURE OF TAX LIEN

- 6.1 The Municipal Officers may, without need of further approval of the legislative body of the Town of Porter, if they determine such course to be in the interests of the Town, proceed to file notices in the registry of deeds to waive the foreclosure of a then pending real property tax lien.
- 6.2 Waiver of foreclosure must be done before the 18-month foreclosure period has expired.

Article 7. AMENDMENTS

- 7.1 This policy supersedes and replaces any or all like or comparable policies or decisions previously enacted or adopted by the Municipal Officers. This policy may be amended from time to time, without further approval of the legislative body, as deemed appropriate by the Municipal Officers.

Article 8. SEVERABILITY

- 8.1 Any provision in this Policy or the application thereof to any person or circumstances determined by a court of law to be unenforceable or invalid shall not affect the application or validity of any other provision of this Policy.