

TOWN OF PORTER TAX-ACQUIRED PROPERTY DISPOSITION POLICY

Article 1. GENERAL

- 1.1 The purpose of the Policy is to provide Town officials and employees with guidance relating to the management and disposition of real estate acquired due to the nonpayment of property taxes, pursuant to 36 M.R.S. §§ 942, 943, and 943-C, 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 (the "Town") for the nonpayment of real property taxes. To the extent any provision within this policy conflicts with applicable State law, such State law shall govern.
- 1.2 If the Town chooses to sell a tax acquired property to any individual or entity other than the former owner, the Select Board or its designee shall use the sale process outlined in Article 3. For the purpose of this policy, "former owner" means the owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees or personal representatives and "tax-acquired property" means real property foreclosed upon by the Town for the nonpayment of property taxes. If the Town agrees to sell the property back to the former owner, the alternative sale process under Article 3 does not apply.

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 Select Board shall, by first class mail, notify the former owner at their last known address by United States Postal Service certified mail, return receipt requested, and first class mail, 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 former owner that the property will be disposed of in accordance with State law.
- 2.1.2 The Treasurer shall annually prepare a list of properties acquired through tax lien mortgage foreclosure. 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 Select Board, if authorized by the Town's legislative body, shall determine the proper disposition of all tax-acquired property in the Town, including but not limited to: (1) retaining the property; (2) selling or conveying the property; or (3) if applicable, selling the property back to the former owner.

Commented [CF1]: Dawn - Would this list best be prepared by the Select Board or the Treasurer/Tax Collector?

2.2 Retained Ownership

- 2.2.1 If the Select Board determines that it is in the best interests of the Town to retain or donate a tax-acquired property, the Select Board shall place a warrant article on the next Town Meeting Warrant, asking if the Town wishes to retain such parcel for a specific articulated purpose or to donate the property at no cost to a third party. If this warrant article is approved by Town Meeting, the Select Board shall procure an appraisal report from an appraiser licensed to provide real estate appraisals in this State showing the value of the tax-acquired property being retained. The appraiser may not hold an elected or appointed office in the Town or be otherwise employed by the Town. The Select Board, after providing the notice required by subsection 3.1.5, shall pay the former owner any excess sale proceeds as calculated in subsection 3.1.4.1, substituting the value of the tax-acquired property as shown in the appraisal report, which must be prepared within 120 days before the time the excess sale proceeds are paid, for the selling price of the tax-acquired property.
- 2.2.2 If the Town approves the retention of a tax-acquired property, the Select Board 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, if necessary to maintain the Town's title to the property.
- 2.2.3 Notwithstanding Article 2.3.1, the Select Board shall cause any tax-acquired property retained to be managed and insured as it would other municipal property.

2.3 Insurance on Vacant Tax Acquired Property

- 2.3.1 In the event the Town acquires a vacant property through foreclosure of a tax lien mortgage, the Select Board shall cause any buildings or structures on the property to be secured, as necessary, and procure 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 Town acquires the property.
- 2.3.2 In the event a tax-acquired property becomes vacant after acquisition by the Town, the Select Board shall cause any buildings or structures on the property to be secured, as necessary, and procure 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 Town property becomes vacant.

Article 3. SALE OR TRANSFER OF TAX ACQUIRED PROPERTY

3.1 The Select Board may, as authorized by the Town's legislative body, sell tax-acquired

property back to the former owner(s). If the Town wishes to sell tax-acquired property to someone other than the former owner(s), consistent with 36 M.R.S. § 943-C, as amended, the Select Board or its designee shall:

- 3.1.1 At least 90 days prior to listing property for sale, send a written notice to the last known address of the former owner(s) by U.S. Postal Service certified mail, return receipt requested and by first-class mail, notifying the former owner(s) of the sale process required by 36 M.R.S. § 943-C, using the form provided by Maine Revenue Services.
- 3.1.2 The Select Board or its designee must attempt to list the property for sale with a real estate broker or agent licensed in Maine, at the highest reasonable price at which the property is anticipated to sell. The broker/agent may not hold an elected or appointed office in the Town nor be employed by the Town.
- 3.1.3 If, after three attempts, the Select Board is unable to contract with a real estate broker or agent to list a tax acquired property for sale; or if the broker or agent is unable to sell the property within 12 months after listing, the Select Board may sell the property in any manner authorized by the Town's legislative body, including the public sealed bid process described in Article 4.
- 3.1.4 Regardless of the sale method, if any excess sale proceeds exist after the sale of a tax acquired property, they must be returned to the former owner or the State's Unclaimed Property Fund as provided herein.
 - 3.1.4.1 Excess sale proceeds to be returned to the former owner shall be equal to the amount of sale proceeds remaining after the Town deducts the amounts below.
 - (1) The sum of all taxes owed on the property;
 - (2) The sum of all taxes that would have been assessed on the property during the period following foreclosure when the property is owned by the Town;
 - (3) All accrued interest;
 - (4) Fees, including advertising, mailing, recording, property listing and real estate broker's or agent's fees, to the extent that those fees are not included in the broker or agent fee agreement;
 - (5) Any other expenses incurred by the Town in selling, maintaining or improving the property, including, but not limited to, documented administrative costs and reasonable attorney's fees;
 - (6) The cost to the Town of the lien and foreclosure process, including, but not limited to, reasonable attorney's fees; and
 - (7) Unpaid sewer, water or other utility charges and reasonable fees imposed by the Town.

- 3.1.5 The Town shall maintain a written accounting of its calculation of excess sale proceeds, itemizing any deductions, in accordance with 36 M.R.S. § 943-C(3)(C). The Town shall provide the accounting to the former owner(s) upon request.
- 3.1.6 If after the sale of a tax acquired property there exist any excess sale proceeds as described above, at least 30 days prior to disbursement of those excess sale proceeds to the former owner(s) the Select Board shall send written notice of the Town's intent to pay the former owner the excess sale proceeds. The notice must be sent by first-class mail and certified mail, return receipt requested, to the last known address of the former owner(s) and the last known address of each record holder of an interest in the tax-acquired property. This notice does not limit the right of a lienholder to pursue any claims to the excess sale proceeds against the former owner(s) otherwise available by law.
- 3.1.7 If the former owner(s) cannot, after reasonable diligence, be located in order for the Select Board to send the written notice of intent to distribute proceeds, the board may publish notice once a week for three consecutive weeks in a newspaper of general circulation in Oxford County. The published notice must contain the name of the former owner(s), a description of the property, the amount of excess proceeds, and the date by which the proceeds must be claimed. If the former owner(s) fails to claim the excess proceeds within 30 days after the final notice is published, the proceeds must be transferred to the Unclaimed Property Fund in the State Treasurer's office.
- 3.1.8 Within 10 days after excess sale proceeds are paid to the former owner(s) or transferred to the Unclaimed Property Fund, the Town must record a notice, signed by the Select Board, in the Oxford County Registry of Deeds that confirms the distribution of excess proceeds documenting its compliance with the law. The notice will contain the (1) name of former owner(s) to whom excess proceeds paid; (2) the amount of excess proceeds; (3) the date proceeds were paid to the former owner; (4) a description of property, and (5) a statement that the former owner's receipt of excess proceeds is deemed to be a waiver of the former owner's right to commence a challenge to the foreclosure pursuant to 36 M.R.S. § 946-B as amended. The Town may include the names of those with a recorded interest in the property and the date that the notice of intent to distribute proceeds was sent to those parties.
- 3.1.9 Pursuant to 36 M.R.S. §943-C(11), receipt of excess sale proceeds by the former owner is deemed to be a waiver of any right of the former owner to commence any action pursuant to 36 M.R.S. §946-B. Failure of a Town to file the notice required by subsection 3.1.7 does not nullify or otherwise affect the validity of the waiver under this subsection. This subsection may not be construed to prevent the former owner from commencing an action for damages relating to the effective conveyance of excess sale proceeds or the amount of excess sale proceeds.

Article 4. PUBLIC SEALED BID If the Town is unable to sell a property pursuant to Article 3, in accordance with Article 3.1.3, such properties shall be disposed of by sale through a public sealed bid in accordance with this Article.

4.2 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.

4.2.1 The Minimum Bid Price shall be a sum no less than the taxes, interest, and fees included in Article 3.1.4.1:

4.2.1.1 In no event shall the Select Board be prohibited from setting the Minimum Bid Price *higher* than any fees as described in 3.1.4.1, if the Select Board determines this to be in the best interests of the Town.

4.2.2 The Notice of Sale shall be posted and advertised for three successive weeks in Your Weekly Shopping Guide or other local publication of general circulation within Oxford County.

4.2.3 The Notice of Sale shall also be sent to the former owner(s) 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.

4.3 Bid Responses

4.3.1 The Select Board 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:

4.3.1.1 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 and a firm bid amount in United States Dollars. Conditional bids are not allowed and will not be accepted.

4.3.1.2 Bidders must, at the time they submit a bid, include a separate bid deposit for each parcel bid upon, as well as a self-addressed stamped envelope to be used to return said deposit to non-winning bidders. The bid deposit shall be 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. Bids that do not include a bid deposit in the proper amount or form of payment in the bid package will be automatically rejected.

4.3.1.3 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.

4.3.1.4 All bid responses must be either hand delivered to the Town 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.

4.3.1.5 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.

4.4 Acceptance of Bids; Limitations

4.4.1 The Select Board may in its 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.

4.5 Right to Accept or Reject Bids

4.5.1 The Select Board shall notify, via mail, email, or phone any successful bidder.

4.6 Rejection of All Bids or No Bids

4.6.1 The Select Board reserves the right to reject any or all bids if doing so is deemed, in its sole discretion, to be in the best interests of the Town. In the event that no bids are received or all bids received are rejected, the Select Board may sell or dispose of the property by any means authorized by the Town’s legislative body.

4.7 Credit and Return of Bid Deposits

4.7.1 The Select Board shall credit the successful bidder’s bid deposit to the purchase price of the related property and after completion of a sale, return bid deposits to the non-winning bidders within 14 days of bid opening.

4.8 Payment and Completion of Sales

4.8.1 Successful bidders must submit payment of the balance of the purchase price of the related property to the Town within nine (9) calendar days following the date of bid opening to complete the sale. Payment must be in form of cash or certified check.

4.8.2 In the event that a successful bidder fails to submit payment of the balance of the purchase price within nine (9) calendar days after a bid is accepted, the Town will retain the bid deposit and the Select Board may thereafter offer the property to the next highest bidder, who must then submit payment of the balance of the purchase price within nine (9) calendar days of the date of the Select Board’s offer, or recommence the public sealed bid process in accordance with this Article.

- 4.8.3 If no successful bidder or subsequently selected bidder is able to complete the sale within nine (9) calendar days, the Select Board may retain or dispose of the property by an alternative method.

4.9 Transfer Documents and Purchaser's Release

- 4.9.1 The Select Board will convey the tax-acquired property by Municipal Release Deed "as is" and without any obligation to remove or dispose of any personal property in or on the property or to remove any occupants thereof. In furtherance thereof, the successful bidder shall agree, in writing, to indemnify and hold harmless the Town from any and all claims arising out of the sale and transfer of the tax-acquired property. The Town is not obligated to address any title disputes.

4.10 Transfer of Ownership after April 1st

- 4.10.1 If a tax acquired property is conveyed after April 1st and before the date of tax commitment, the conveyance instrument shall require the purchaser to be responsible for all property taxes for that year, once committed.

Article 5. WAIVER OF FORECLOSURE OF TAX LIEN

- 5.1 Pursuant to 36 M.R.S. §944(1), the Town Treasurer may, if authorized by the legislative body of the Town of Porter, proceed to record a notice in the registry of deeds to waive the foreclosure of a then pending real property tax lien.
- 5.2 Prior to waiving foreclosure of a real property tax lien, the Town Treasurer should consult with the Select Board to determine whether the recording of a waiver is appropriate.
- 5.3 A waiver of foreclosure must be recorded with the Registry of Deeds before the 18-month redemption period has expired.

Article 6. AMENDMENTS

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

Article 7. SEVERABILITY

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.