

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.
- 1.2 If the Town of Porter chooses to sell to someone other than the former owner, the municipal officers or their designee shall use the sale process under article 4. 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 taken by a municipality for nonpayment of property taxes. If the municipality agrees to sell the property back to the former owner, the alternative sale process under article 4 does not apply. If the sale to the former owner is not completed, the requirements of article 4 are reinstated.

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 former owner 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 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.

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 If a municipality chooses to retain a tax-acquired property for municipal use, the municipality 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 municipality or be otherwise employed by the municipality. The municipal officers, after providing the notice required by subsection 4.1.5, shall pay the former owner any excess sale proceeds as calculated in subsection 4.1.4.1, 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.
- 2.3.3 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) calendar 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;
 - 3.3.2 Agreement to make payment to the Town within ninety (90) calendar 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

- 4.1 The municipality may sell tax-acquired property back to the former owner through a locally determined process, assuming the sale is authorized by the municipal legislative body. If the municipality wishes to sell tax-acquired property to someone other than the former owner, the revised 36 M.R.S. § 943-C requires:

- 4.1.1 At least 90 days prior to listing property for sale the municipal officers or their designee must send a written notice to the last known address of the “former owner” 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. (A Maine Revenue Services form should be used to provide the notice).
- 4.1.2 The municipal officers or their designee must 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 municipality nor be employed by the municipality. The municipality must allow at least 12 months after listing for the property to sell.
- 4.1.3 If, after three attempts, the municipal officers are unable to contract with a real estate broker or agent; or if the broker or agent is unable to sell the property within 12 months after listing, the municipal officers may sell the property in any manner authorized by the municipality’s legislative body, provided that the former owner must still receive any excess sale proceeds. If the public sealed bid process is used, the process set forth in Article 5 shall be followed.
- 4.1.4 Regardless of the sale method, if any “excess sale proceeds” exist after sale, they must be paid to the former owner.
 - 4.1.4.1 The excess proceeds to be returned to the former owner is equal to the amount of sale proceeds remaining after the municipality deducts the amounts below. The former owner may request a written accounting of the amount of excess sale proceeds itemizing any deductions. ((§ 943-C(3)(C)).
 - (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 municipality;
 - (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 municipality 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 municipality 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 municipality.

- 4.1.5 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 the municipal officers shall send written notice of the municipality'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 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 otherwise available by law.
- 4.1.6 If the former owner(s) cannot, after reasonable diligence, be located in order for the municipal officers 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 the county. The published notice must contain the name of the former owner, a description of the property, the amount of excess proceeds, and the date by which the proceeds must be claimed. If the former owner 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.
- 4.1.7 Within 10 days after excess sale proceeds are paid to the former owner(s), the municipality must record a notice in the registry of deeds in the county where the property is located that confirms the distribution of excess proceeds documenting its compliance with the law. See § 943-C(11). The notice will contain the (1) name of former owner(s) to whom excess proceeds paid; the amount of excess proceeds; (2) the date proceeds were paid to the former owner/State Treasurer; (3) a description of property, and (4) 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. The municipality may voluntarily wish to 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.
- 4.1.8 Receipt of excess sale proceeds by the former owner pursuant to this section is deemed to be a waiver of any right of the former owner to commence any action pursuant to section 946-B. Failure of a municipality to file the notice required by subsection 4.1.7 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 5. PUBLIC SEALED BID

- 5.1 The Municipal Officers shall offer properties, in accordance with Article 4.1.3, be 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 the fees below and any additional fees in Article 4.1.4.1:
 - 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;
 - 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 through 5.2.1.3, above, and any fees as described in 4.1.4.1, 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.
- 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 The Municipal Officers shall notify, via mail, email, or phone 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)

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) calendar 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) calendar days or similarly will forfeit their bid deposits.
- 5.8.4 If no successful bidder is able to complete the sale within nine (9) calendar 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 calendar 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. The Town has no obligation to clear up title issues or to guarantee good title to the property, and municipal officials should be careful not to make any representations concerning title to the property. These issues are the buyer's responsibility to consider, perhaps through a title search and consultation with a lawyer prior to the sale.

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.

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.