



# Town of Winthrop Policy for Tax-Acquired Property

(Adopted April 4, 2016)  
(Amended Dec. 21, 2023)

## ARTICLE 1. General Purpose Statement

- 1.1 The purpose of this policy is to establish procedures and guidelines for the management and disposition of real property acquired for non-payment of taxes as provided for State law. See, e.g., 36 M.R.S. §§ 942, 943, & 9043-C. Nothing in these guidelines, however, shall limit or restrict the rights of the Town Council to waive any provision of this policy to manage or dispose of tax-acquired property in the best interest of the Town. Except as expressly provided herein, this policy shall not be interpreted to give additional substantive or procedural rights to owners or former owners of properties forfeited for non-payment of taxes.

## ARTICLE 2. Pre-Foreclosure Evaluation of Liened Property

- 2.1 At the same time as Notices of Impending Foreclosure are sent, the Town Manager shall be responsible for preparation of the list of foreclosures and conduct an evaluation of any potential liabilities the Town might assume in the event of tax foreclosure. The Town Manager will conduct such evaluation with special attention given to, without limitation, situations involving hazardous waste, public safety problems, and landlord responsibilities. The Town Manager will then provide a recommendation regarding waiver of foreclosure for action upon by the Town Council. The Town Manager shall be responsible for preparation of the list of foreclosures and, if appropriate, shall make recommendation(s) to the Town Council regarding any potential liabilities.

## ARTICLE 3. Evaluation and Management of Tax-Acquired Property

- 3.1 Following the foreclosure of the tax lien, the Town Manager shall notify the owner of record at the last known address by certified mail, return-receipt, and by first-class mail that his or her right to redeem the property has expired. The notification shall advise the owner of record that the tax-acquired property will be managed in accordance with this policy, a copy of which shall be included with the notification.
- 3.2 The Town Manager shall prepare a list of properties acquired and forward a copy to the Town Council together with information such as size, location, zoning, and other relevant data.
- 3.3 The Town Council, in consultation with the Town Manager and any other interested parties, shall evaluate any current or future needs the Town might have for each

property, with particular attention given to recreation, parks, municipal facilities, economic development projects, and open space needs, as well as the foreclosed property's marketability.

- 3.4 The responsibility for the management of tax-acquired property rests with the Town Council. Any Town Council decision regarding disposition of property shall include a review of the following:
- a. Determining the marketability and potential liability inherent in owning the property and whether the Town's best interest would be served by declining to foreclose on the property.
  - b. Obtaining, if necessary, a level of insurance required to protect the Town's interest in the property with structures thereon and to protect the Town from liability.
  - c. Determining when any occupants of tax-acquired property shall be required to vacate the property. The Town Council reserves the right to exercise its right to evict any occupants of tax-acquired property in accordance with its legal rights pursuant to the tenant at-will statutes and any other manner prescribed by law. Locks will be changed once occupants vacate the property at the Town's expense; that cost will be recouped as part of the sales proceedings, as will any other related expenses, such as winterizing a structure.
  - d. Notwithstanding the provisions of Article 5, the Town Council shall determine special conditions, if any, for property sales.
  - e. If, the Town Council determines it is in the Town's best interest to immediately dispose of the property, the Town Council may authorize the Town to do so on terms it deems advisable without regard to any other provisions of the policy. Notwithstanding the foregoing, the Town's procedures must remain compliant with Maine's Right to Know and Sale of Foreclosed Properties laws. See 1 M.R.S. §§ 401 et seq and 36 M.R.S. § 943-C.

#### ARTICLE 4. Town Council's Right to Retain Property

- 4.1 If the Town Council deems it to be in the Town's best interest, the Town Council may retain tax acquired property without offering the property for sale where:
- a. The property has or will have recreation or open space value, or economic importance to the Town, or
  - b. The property has or will have the potential for the location of a public facility or an addition to a public facility.
- 4.2 The Town Council reserves the right to exercise its right to evict any occupants of tax-acquired property in accordance with its legal rights pursuant to the tenant at-will statutes and any other manner prescribed by law.

#### ARTICLE 5. Sale and Disposition Procedures

- 5.1 If the Town Council decides, in its sole discretion, not to retain tax acquired property as provided in Article 4, the Council may sell the property pursuant to the provisions of 36 M.R.S. § 943-C.
1. At least 90 days prior to listing a property for sale, Town Manager shall send a written notice of the last known address of the former owner, by USPS certified mail, return receipt requested, and first-class mail, of the right to require the sales process described in 36 M.R.S. § 943-C(2). If the former owner submits a written demand within 90 days after the notification, the Town must use the sales process outlined in 36 M.R.S. § 943-C(3).
  2. If the former owner does not choose to demand using the process outlined in Section 5.1(1) above, the Town Manager shall notify by certified mail, return receipt requested, all abutting property owners of the sale, and shall cause to be published a notice of such sale in a local newspaper. Said notice shall be published once a week for two (2) consecutive weeks. The notice also shall be posted within the Town Office and on the Town's website. The notice shall specify:
    - a. The following information for each piece of property for sale:
      - (1) Brief description of the property, i.e. land, building(s), mobile home, etc.;
      - (2) Location of property, including its map and lot number according to the Town's records;
- 5.2 Any potential buyer must provide proof of funds for an offer to be considered. The Town Council will require a deposit of prospective purchasers. The Town's contracted real estate broker shall retain such deposit in escrow as a credit toward the purchase price.
- 5.3 In its sole discretion, the Town Council may set a minimum purchase price that is at least equal to the sum of back taxes owed, interest and costs associated with the tax-acquired property's acquisition and sale.
- 5.4 The Town Council shall approve all sales of tax-acquired properties. The Town Council reserves the right to accept or reject any proposal and to waive any of the requirements of this policy if the Town Council, in its sole determination, judges such action to be in the Town's best interests. Instances in which this right may be invoked include, but are not limited to, when the Town Council determines it prefers a use proposed by a party other than the highest bidder.
- 5.5 The Town Council shall otherwise sell the property to the highest bidder unless:
- a. The bidder is unable to satisfy any of the other requirements of the sale or of this policy.
  - b. The bidder is not responsible as shown by a history of tax delinquency.
- 5.6 Should the Town Council reject all bids, the property may again be offered for public sale under terms the Town Council deems appropriate.

- 5.7 The Town Council shall require payment in full at the closing of the sale of the property. Should the bidder fail to pay the full price at the closing, the town shall retain the bid deposit and title to the property. The Town Council shall issue a quitclaim deed only upon full payment of a successful bid price and the clearance of any checks.
- 5.8 The successful bidder shall accept the property in an as-is, where-is condition and be responsible for all obligations attendant to the property, including conditions imposed by the Town Council in the terms of the sale, if any.
- 5.9 In lieu of selling the property through the methods described above, the Town Council may allow the former property owner to re-purchase the property as described in Article 6.
- 5.10 Notwithstanding any other provision contained in this policy, the Town Council may, in its sole discretion, dispose of any tax-acquired policy in any other manner as solely determined by the Town Council and in keeping with state law.

#### ARTICLE 6. Provisions for Owner Repurchase

- 6.1 The Town Council may vote to allow the former owner(s) to repurchase the tax-acquired property.
- 6.2 Former property owners may enter into an agreement with the Town allowing the former owner to repurchase the property only if all the following conditions are met:
  - a. The property owner agrees to pay all outstanding taxes and interest together with all other related costs to the Town.
  - b. That the former property owner reaches agreement with the Town within 90 days after receipt of the notice described in Section 3.1 of this Policy.
  - c. That the agreement to repurchase the property shall be made in four installments or less.
- 6.3 It is hereby understood that Article 6 shall not obligate the Town Council to allow the former owner(s) to repurchase; and no action of the Town Council under this Article 6 shall be deemed to set precedence with respect to any other past, present or future foreclosure and property disposition by the Town of Winthrop.

#### ARTICLE 7. Disbursement of Excess Funds

Any excess funds received from the sale of tax-acquired property after the payment of all outstanding back taxes, current taxes, interest and expenses incurred by the Town to sell the property shall be distributed to the former owner pursuant to 36 M.R.S. § 943-C.