

**TOWN OF WINDHAM**  
**POLICY FOR THE DISPOSITION OF TAX-ACQUIRED PROPERTY**

**Article 1      General - Purpose and Intent**

1.1 The Town Council believes it to be in the public interest to allow the previous assessed owners of property to have reasonable opportunity to satisfy their obligation to contribute to the public charges.

1.2 The Town Council recognizes that it has the fiduciary responsibility to consider the value to the Town of any property it has acquired through automatic foreclosure, prior to disposition.

1.3 This policy establishes procedures for the management, administration and disposition of real property acquired by reason of non-payment of taxes by the Town of Windham in accordance with Title 36 MRSA Sections 942 and 943, as amended. Nothing in this policy shall be interpreted to give additional substantive or procedural rights to owners of properties forfeited for non-payment of taxes.

1.4 Any release of the Town's interest pursuant to this policy is at the sole discretion of the Town Council.

**Article 2      Management of Tax-Acquired Property Pending Final Disposition**

2.1 When the lien certificate is filed in the Registry of Deeds, a copy of this policy will be forwarded to the taxpayer. Following the foreclosure of the tax lien mortgage, the municipal Treasurer shall notify the last known owner of record that his or her right to redeem the property has expired. The notification shall advise the last known owner of record that the real estate property will be disposed of in accordance with policy, a copy of which shall be included with the notification.

2.2 The Municipal Treasurer and Town Manager shall jointly be responsible to identify properties subject to foreclosure that the Town should avoid acquiring through the tax-lien foreclosure process due to concerns about liability, property condition, or related expense, and make a recommendation to the Town Council that foreclosure be waived in accordance with 36 M.R.S. § 944.

2.3 The municipal Treasurer shall annually prepare a list of properties acquired with information below and forward a copy to the Town Council. Based on information readily available, this list shall label the properties into four categories with:

1. Property Information;
  - a. making contact with the current owner or occupant to determine extenuating circumstances related to the owed taxes and property's status. With the exception of properties that repeatedly have been subject to automatic foreclosure (twice within a three-year period), a good faith attempt will be made to contact property owners during the period of evaluation, and
  - b. determining the total amount of all taxes, interest, and fees owed to the Town of Windham, and

- c. historical activity on the property of a public health or safety nature, or which constitute a threat to public health or safety, and
- d. code violations, and
- e. any potential uses for the property that would constitute a public benefit.

- 2. Property Classification;
  - a. Owner-occupied
  - b. Non-owner-occupied
  - c. Vacant Land
  - d. Commercial/Industrial

2.4 The responsibility for the management of tax-acquired property rests with the Town Council. Pending the Town Council's decision regarding the final disposition of property, the Town Council and Town Manager shall:

- a. Determine in light of potential liability inherent in owning the property whether the Town's best interest would be served by immediately disposing of the property or disposing of the property at such times as the Town Council and Town Manager deem advisable without regard to any other provisions of this policy, and/or
- b. Determine and obtain, if necessary, insurance in the amount required to protect the Town's interest in the property and to protect the Town from liability; and/or
- c. Determine if and when any occupants of tax-acquired property shall be required to vacate the property, and/or
- d. Choose to meet with the delinquent taxpayer to determine a repayment plan.

2.5 In the event the property is vacated for sixty (60) consecutive days, the Town Manager shall review the property asset for liability coverage.

### **Article 3      Review of Tax-Acquired Properties**

3.1 Any interested Department or Town Committee may make recommendations to the Town Manager regarding the disposition of tax-acquired property within thirty (30) days of the Town Council's receipt of the list of tax-acquired properties from the Town Treasurer. The Town Manager shall coordinate and summarize those recommendations for each acquired property and categorize the recommendations as follows:

- a. to sell the property with or without conditions;
- b. to retain the property for a specified purpose; or
- c. to retain the property on an interim basis if it is a single-family residence occupied by the taxpayer and the Town Manager has reason to believe that the property owner is willing and able to redeem the property through payment of all taxes, interest and related fees due within a reasonable timeframe. If this recommendation is offered and the taxpayer is unable to make payment in full within 60 days, the Town Manager may present a written plan under which the taxpayer is to pay outstanding taxes, interests, and costs associated with the tax lien process; and any other lawful charges. The plan must provide that the Town will receive payment on a reasonable schedule. Cost to be paid will include all costs incurred by the Town outside of the tax lien process including but not

limited to insurance costs and attorney's fees. The taxpayer must sign the written plan and agree in writing that the title to the property belongs to the Town and shall remain with the Town until the taxpayer completes payment under and in strict compliance with the plan and that the owner will strictly comply with the plan. Failure to strictly comply with the plan will result in the property's being retained by the Town or sold under other provisions of this policy unless other prior written arrangements have been approved by the Town Council. The term "occupied" as used in this paragraph includes persons in a nursing facility who realistically intend to return to their home.

#### **Article 4 Property to be Retained**

4.1 If the Town Council deems it to be in the Town's best interest, it may order that the tax-acquired property be retained by the Town for a specific purpose. By way of example, but not limitation, the Town Council may deem it to be in the Town's best interest to retain the property where:

- a. the property has or will have recreational value or economic value to the Town; or
- b. the property has or will have potential use as a public facility or as an addition to a public facility.

4.2 If the property is retained, the Town Council may pursue an action for equitable relief in accordance with the provisions of Title 36 M.R.S.A. Section 946, if desirable.

4.3 The Town Council shall cause the tax-acquired property retained to be managed and insured as it would other municipal property.

#### **Article 5 Property to be Sold**

5.1 For those tax acquired properties the Town Council determines will be sold; the Town Council shall determine the method of sale. Methods may include but are not limited to brokerage sale, negotiated sale, or public bid process.

5.2 Bid process.

- a. If the public bid process is used, the Town Manager shall cause to be published advance notice of the sale of the tax-acquired property in a local newspaper. The notice shall also be posted in a conspicuous place within the Municipal Building. The notice shall also be sent to the person(s) from whom the property was acquired and the property owners whose property immediately abuts the property to be sold; provided, however, failure of the Town to notify, or failure of the owner(s) or abutter(s) to receive the notice shall not invalidate the sale. The notice shall specify the time and date bids are due, the general terms of the sale and information useful to prospective bidders.
- b. All bids shall be submitted on forms prescribed by the Town Manager in an envelope clearly marked "Property Bid" and the property's map and lot number or address and accompanied by a cashier's or certified check equal to the bid deposit. Bids shall be publicly opened and read on the date and at the time specified under the terms of the sale.
- c. The Town Manager shall review all bids and make recommendations to the Town Council. The Town Council shall determine the successful bidder. Except where the Town Council determines that considerations other than price shall control

as provided in Section 5.4 below, bids shall be awarded to the highest bidder who can close in cash within 30 days.

- d. The Town reserves the right to reject any or all bids and waive any of the requirements of this policy should the Town Council, in its sole determination, judge such actions to be in the best interest of the Town. Instances where this right may be invoked include, but are not limited to:
  - 1. The Town Council may wish to sell the property to an abutting property owner rather than the highest bidder; or
  - 2. The Town Council may determine a use other than the use proposed by the highest bidder that is in the best interests of the Town.
- e. Should the Town Council reject all bids, the property may again be offered for sale using any of the methods outlined in Section 5.1.
- f. Should the bidder fail to complete the terms of the sale, the Town shall retain the bid deposit. The Town Council may thereafter offer the property to the next highest bidder, if the Town Council determines that such an offer is in the best interest of the Town.

5.3. Title to tax-acquired property shall be transferred only by means of a Municipal Release (Quitclaim) Deed. The description in the deed shall match that in the corresponding tax lien certificate.

5.4 Unless the property is vacant at the time of sale, the successful bidder shall be responsible for the process and expenses of removing occupants and contents from the property in a manner according to law, including the law regarding disposition of personal property.

5.5 The proceeds of the sale shall be distributed in the following manner to the extent that funds are received from the sale. First, all taxes, interest, and costs under the tax lien process shall be paid to the Town, including all costs incident to the sale of the property. Second, all outstanding assessments or other lawful charges incurred by the Town in providing services to the property shall be paid. Third, remaining balances on occupied primary residences, minus a 10% penalty, may be distributed to the prior owner provided a written request is received within 60 days of the tax acquired property sale

Any remaining proceeds will be distributed by the council for homelessness and affordable housing initiatives.

## **Article 6 Special Exceptions**

6.1 The Town Council has the right to waive any and all of the requirements of this policy in special circumstances, as deemed necessary, by an affirmative vote of five (5) or more Council members.

**Adopted by the Windham Town Council**

**Date: June 22, 2021 by Order 21-045**

**Amended: December 13, 2022 by Order 22-239**