CHAPTER 10
MAINTENANCE, ADMINISTRATION AND DISPOSITION OF TAX ACQUIRED PROPERTY
CITY OF ELLSWORTH, MAINE

A true copy –

Attest: Suzanne McLean
City Clerk

Adopted
6/17/1985 Amended
12/16/1996
Repealed/Replaced
04/19/2010
Amended 08/16/2010
Amended 04/15/2019
Amended 1/18/2019
Amended 12/15/25

ARTICLE I. GENERAL

Section 1. Short Title

This ordinance is hereby adopted in accordance with the provisions of Title 30-A MRSA, Section 3001, as amended and shall be known as and may be cited as the *"Ordinance for the Maintenance, Administration and Disposition of Tax Acquired Property for the City of Ellsworth"* and shall be referred to herein as the "Ordinance".

Section 2. Purpose

The purpose of this Ordinance is to establish and dictate a procedure whereby real property, [1]recently acquired in accordance with 36 MRSA, Sections 942 and 943, as amended, shall be managed, administered and disposed of by the City of Ellsworth, in accordance with 36 MRSA Section 943-C. [2]This ordinance does not dictate procedure of City Property which may be disposed of by the City Council as they deem advisable.

Section 3. Definitions

For the purpose of this Ordinance, the following terms shall have the following definitions:

[3]**a.** **“City Property”** shall mean all property owned by the City except for tax acquired property as defined below.

b. **"Foreclosed Tax Lien"** shall mean a tax lien mortgage that has automatically foreclosed pursuant to the provisions of 36 MRSA, Section 942 and Section 943, as amended.

c. **“Former Owner”** shall mean the owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees or personal representatives.

d. **"Mail"** shall mean regular, first class mail, postage prepaid.

e. **"Municipality"** shall mean the City of Ellsworth.

f. **"Prior Owner"** shall mean the person or persons, entity or entities, heirs or assigns to whom the property was most recently assessed for municipal tax purposes.

g. **"Quit Claim Deed"** shall mean a signed, legal instrument releasing the municipality's right, title or interest in the real estate property, acquired by virtue of foreclosed tax liens, to an individual or individuals, entity or entities without providing a. guarantee or warranty of title to same.

h. **"Real Property"** shall mean all land or lands and all structures, buildings, dwellings, tenements and hereditaments, including manufactured homes, located or relocated upon any land or lands connected therewith and all rights thereto and interests therein.

i. **"Tax Acquired Property"** shall mean real property taken by a municipality for nonpayment of property taxes.

j. **"Tax Lien"** shall mean the statutory lien created by 36 MRSA, Section 552, as amended.

k. **"Timeshare"** shall mean real property that is subject to shared ownership whereby a purchaser receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year and which extends for a period of more than three years. The definition of timeshare does not include property owned jointly where each party has the right to occupy the property for the entire year even if the owners agree among themselves to limit their occupancy to certain time periods. The definition of timeshare further does not include property owned by one party or owned jointly where each party has the right to occupy the property for the entire year which is then leased or licensed to third parties for a specific period of time less than a full year.

ARTICLE II. MANAGEMENT AND ADMINISTRATION

Section 1. Following statutory foreclosure of a tax lien mortgage, title to the real property automatically passes to the municipality. The management of this property rests exclusively with the City Council, subject to the applicable statutes, ordinances and regulations.

Section 2. The City Council may obtain fire loss insurance for tax acquired property with structures in a dollar value not less than all outstanding taxes, liens, costs and other attendant expenses.

Section 3. The City Council shall determine when and if any occupant of tax acquired property shall vacate the same, including whether they wish to pursue any necessary legal action to evict current occupants.

Section 4. The City Council shall determine whether a tax acquired property is to be retained for municipal use or disposed of in accordance with the provisions of this ordinance.

Section 5. Should the City Council decide to retain tax acquired property for use by the City, it must follow the procedures for retaining tax acquired property as set forth in 36 MRSA Section 943-C.

Section 6. The City Council may charge a monthly rental fee to any and all occupants of tax acquired property. If a rental fee is charged, the City Council shall obtain sufficient insurance coverage for the tax acquired property.

Section 7. The City Council shall obtain insurance coverage for tax acquired property at such time as the prior owner, his lessee or licensee, has ceased to occupy the same for a period of 60 days, except that the City Council may, at its discretion, obtain insurance coverage for tax acquired property that is subject to Article III-B.

ARTICLE III. HANDLING OF TAX ACQUIRED PROPERTY

Tax-acquired property shall be handled according to the following provisions unless Article III-A or III-B apply:

Section 1. As soon as possible following the automatic foreclosure, the City Council shall decide whether: (a) the tax-acquired property shall be retained for use by the City; (b) whether the tax-acquired property shall be sold back to the Former Owner; or (c) whether it shall be sold to someone other than the Former Owner.

Section 2. If the City Council decides to retain tax-acquired property for use by the City, it shall follow the requirements sent forth in this Article for the sale of property to someone other than the former owner, and 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, which shall be the sale price. The appraiser may not hold an elected or appointed office in the municipality or be otherwise employed by the municipality. After providing the required notice of intent to disburse sale proceeds, as detailed in this Article, the City shall pay the former owner any excess sale proceeds as calculated in this Article, 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.

Section 3. If the City Council decided to sell the property back to the Former Owner, the provisions of Article III-A shall apply.

Section 4. If the City Council decides to sell the property to someone other than the Former Owner, the City must first mail a 30-day redemption notice by certified mail, return receipt request, to the Former Owner. The Former Owner may redeem the property within 30 days from the date of the letter by paying all taxes in full including interest, costs, and current tax year. Payment must be made by cashier's check, postal money order, or cash.

Section 5. Upon expiration of the 30-day redemption notice, the statutory requirements for the sale of tax-acquired property, as stated in 36 MRSA Section 943-C, as it may be amended, shall be followed:

a. At least 90 days prior to listing the tax-acquired property for sale, the City shall send a written notice to the last known address of the former owner, by United States Postal Service certified mail, return receipt requested, and first-class mail, of the sale process described in 36 MRSA Section 943-C(3), on the form prescribed by the State Tax Assessor.

b. Upon the expiration of the 90-day notice, the City shall list the tax-acquired property for sale at the highest reasonable price at which the property is anticipated to sell with a real estate broker or agent licensed under 32 MRSA Section 114, who does not hold an elected or appointed office in the City, and is not employed by the City.

    1. If, after 3 attempts, the City is unable to contract with a real estate broker or agent

for the sale of the property, or the broker or agent is unable to sell the property within twelve (12) months after listing, the City may sell the property in any manner authorized by the City Council, as long as the City pays the former owner any excess sale proceeds as calculated in this Article.

c. The City shall convey the property via Municipal Quitclaim deed to the successful buyer at the highest price at which the property is able to sell within 12 months after listing.

d. The City shall pay to the former owner any sale proceeds in excess of:

   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 City;

   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 City 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 City 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 City.

e. The City shall provide to the Former Owner a written accounting of the amount of excess sale proceeds itemizing any deductions made pursuant at the former owner's request.

f. If after the sale of a tax-acquired property there exists any excess sale proceeds as described in this Article, at least 30 days prior to disbursement of those excess sale proceeds to the Former Owner, the City shall send written notice of the City'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, using the form prescribed by the State Tax Assessor. 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.

g. If the City is unable, after reasonable diligence, to locate the Former Owner of a tax-acquired property in order to send the notice of intent to distribute sale proceeds, the City, once a week for three (3) consecutive weeks, shall place a notice in a newspaper of general circulation in Hancock County. The notice shall include the name of the Former Owner, a description of the tax-acquired property that was sold, the amount of the excess sale proceeds and the date by which the excess sale proceeds must be claimed. If, after notice by publication, the Former Owner fails to claim the excess sale proceeds within 30 days of the final published notice, the City shall transfer the excess sale proceeds to the Unclaimed Property Fund under 33 MRSA Section 2141.

h. The City, within ten (10) days of payment of any excess sale proceeds to the Former Owner under this Article, shall record in the Hancock County Registry of Deeds a notice signed by the City Council. The notice must include the name of the Former Owner to whom the excess sale proceeds were paid, the amount of the excess sale proceeds, the date on which the excess sale proceeds were paid to the Former Owner, a description of the tax-acquired property that was sold and a statement that receipt of the excess sale proceeds by the Former Owner is deemed to be a waiver of the Former Owner's right to commence any action challenging the taking pursuant to section 36 MRSA Section 946-B.

Section 6. If the City is unable to list the property for the sale with a real estate agent or broker, or sell it within the specified time frame, the City Council shall solicit sealed bids for the sale of the tax acquired property and shall receive bids on a date to be determined by the City Council.

Section 7. The City Council shall cause a public notice of the impending public sale of tax acquired property to be posted within the city building and to be advertised for two consecutive weeks in the [7]newspaper of general circulation, the last notice to be published at least seven days prior to the advertised sale date.

Section 8. The City Council shall require the following for proper submission of bids:

a. A bid sheet containing the Tax Map and Lot number(s) of the property being bid upon and the bid price.

b. A certified cashier's check or postal money order in an amount not less than 10% of the bid price must be included as a deposit on the bid. Failure to submit a deposit shall cause the bid to be automatically rejected.

Section 9. The City Council shall require that those bid items cited above in Section 4, subsections a) and b), be sealed in a single plain envelope marked only "Tax Acquired Property Bid" on the exterior and either be hand delivered to the City Manager or, if mailed, to be enclosed within a second envelope addressed to the City Manager, City of Ellsworth. All bids must be received by the municipality on the date and time determined by the City Council in Section 2 above.

Section 10. The City Council shall not accept any bid that is less than the total outstanding taxes, interests and costs, current year taxes not assessed, and public notice costs and insurance costs.

Section 11. The City Council shall accept the highest bid, but shall retain the right to accept or reject any and all bids submitted if they do not cover the costs as described in this Article used to determine excess sale proceeds. Should the City Council reject all bids, the property may be offered again for public sale without notice to any prior owner or owners.

Section 12. The City Council shall notify by mail any successful bidder.

Section 13. The City Council shall, as a credit to payment, retain the submitted bid price deposit of any successful bidder and shall return all other submitted deposits.

Section 14. The City Council shall require payment in full from a successful bidder within 30 calendar days following the date when bids are opened and read. Should the bidder fail to pay the balance within 30 days [8]or should the successful bidder choose not to complete the purchase for any reason, the City shall retain the bid price deposit and title to the proffered property.

Section 15. The City Council may, subject to a show of good cause on the part of the bidder, extend the time limit in which full payment must be received by 20 additional days.

Section 16. The City Council shall convey title to tax acquired property by Municipal Quitclaim Deed.

Section 17. The successful bidder shall be responsible for the removal of any and all occupants of tax acquired property purchased by him and shall, in writing, forever indemnify and save harmless the municipality from any and all claims arising out of the sale of the tax acquired property by the occupants of the purchased property, their heirs or assigns. A signed, written document giving effect to the provisions of this section shall be delivered to the municipality with the balance of the purchase price.

**ARTICLE III-A SALE TO FORMER OWNERS RESIDING ON THE PREMISES

Section 1. This Article applies only to Former Owners who personally reside on the premises of the tax-acquired property at the time the tax lien matured and continuously thereafter up to and including the time of the petition for repurchase noted below.

Section 2. Within thirty (30) days of the maturation of the oldest property tax lien encumbering the immediate prior owner of the tax acquired property may petition the City Council to repurchase the property.

Section 3. The City Council may, at its discretion, allow such repurchase if it deems the repurchase to be in the best interest of the City. The City Council shall establish the terms of the repurchase at the time it decides whether to allow such repurchase.

Section 4. In the event the City Council votes to allow the immediate prior owner to repurchase the property, the City Treasurer shall prepare a repurchase agreement. This agreement shall allow the immediate prior owner to repurchase the property upon payment of all back taxes, interest, charges and fees and all attorneys' fees incurred by the City in the repurchase process, plus any taxes and interest accrued during the term of the repurchase agreement. The repurchase agreement shall generally conform to the model found at Appendix A of this Ordinance.

Section 5. A repurchase agreement is not binding upon the City until it is reviewed by the City Attorney and signed by the City Council after a vote thereon.

Section 6. The City Council shall only give a Municipal Quitclaim Deed to convey title to the property. There shall be no transfer of title of the property until the repurchase agreement is satisfactorily performed by the repurchaser.

ARTICLE III-B. DISPOSITION OF TIMESHARE PROPERTY

Section 1. This Article applies only to tax-acquired timeshares.

Section 2. Tax arrears on Timeshare property shall be written-off upon foreclosure.

Section 3. The City Council may, at its discretion, dispose of Timeshare property as it deems to be in the best interest of the City without offering the prior owner an additional 30-day redemption period. This may be accomplished by leasing timeshare property to a third party for subleasing and marketing.

Section 4. The City Manager is authorized to execute a Municipal Quitclaim deed for the sale of Timeshare properties.

ARTICLE III-C. OTHER SALE AND DISPOSITION PROCEDURES

Section 1. Should the City Council determine that tax-acquired property shall be relinquished rather than retained by the City, and the provisions of Article III have been completed in full a minimum of one (1) time and the provisions of Article III-A do not apply thereto and if bids are not received for tax acquired property under the terms and conditions of Article III, then the City Council may dispose of tax acquired property as they deem advisable.

Section 2. Any sale of tax-acquired property shall be through public sale and shall be sold for the highest amount offered. The Finance Director, under the directive of the City Manager, shall oversee the exact terms and conditions of such sale and use his/her best judgment to seek the best and most expedient method of sale and return on the sale for the City. The City Council will have the right to accept or reject any sale.

Section 3. The price of tax acquired property, sold pursuant to this Article must be no less than the total outstanding taxes, interest, costs including, but not limited to, public notice costs and insurance costs, and current year taxes, as described in Article III. The City Council may waive this provision if it concludes that doing so would be in the City's best interest or that the property will not sell for an amount that covers all costs and expenses.

Section 4. A public notice of tax acquired property available for sale under Article III-B to be posted within the city building, on the City website, and to be advertised for two consecutive weeks in the newspaper of general circulation.

ARTICLE IV. CONSTRUCTION AND ADOPTION

Section 1. The various Articles and Sections of this Ordinance are severable. Should any article or provision of this ordinance be declared invalid, such decision shall not invalidate any other Article or Section of this ordinance.

Section 2. The provisions of this ordinance shall not be deemed applicable to a release given by the City Council to any person or persons, entity or entities, the sole purpose of which is to remove any cloud upon title to property arising from defective or unrecorded discharges of tax liens.

Section 3. This ordinance shall become effective immediately upon adoption by the City Council.

Section 4. 36 MRSA Section 943-C, as it may be amended, shall control the sale procedure for the sale of tax-acquired property. This ordinance shall be revised as necessary to comply with an amendments to said statute.