



Disposition of Tax Acquired and Town Owned Property

1. Purpose & Authority

The purpose of this Policy is to establish procedures for the efficient and fair management, administration and disposition of Town-owned property and property acquired under the tax lien mortgage foreclosure procedures set forth in Title 36 M.R.S. § 942 and § 943, as may be amended. Nothing in this Policy shall be interpreted to (1) give additional substantive or procedural rights to owners or former owners of property forfeited for non-payment of taxes, or (2) limit the right of the Select Board to waive these guidelines if the Select Board deems it to be in the Town's best interest to do so.

Property acquired by means of sewer lien foreclosure is not subject to 36 M.R.S. § 942-943, but sale proceeds may still be applied to outstanding unpaid sewer, water or other utility charges, among other reasonable fees. Otherwise, pursuant to the constitutional principles set forth in *Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 (2023), any excess sale proceeds still must be returned to the former owner.

2. Procedure for Tax Acquired Property

1. The Town Manager and Treasurer shall annually prepare and provide to the Select Board a list identifying all properties acquired due to non-payment of property taxes and foreclosure of tax lien mortgages under 36 M.R.S. § 942-943. The list will include the property street address, assessed property value, the names of the prior owner(s), the date of automatic foreclosure, and the total amount of outstanding taxes, costs, and interest.
2. The Town will send a notice, via certified mail, return receipt requested and with a copy sent via regular first class mail, to the former owner(s) of the property in question that will explain that the municipal tax lien certificate recorded against the property has matured because of the failure to pay the taxes during the redemption period and that the title to the property has automatically vested in the Town of Livermore Falls. The notice shall also indicate that by virtue of this Policy, the Select Board is providing the former property owner(s) an additional 90 days from the date of the notice to pay in full all outstanding taxes, costs, and interest in order to redeem the property. A copy of this policy shall be included with this notice.
3. If the former owner makes no effort to make payments to the Town or to bring the account out of arrears within that 90-day Policy period, the Town will have the right to dispose of the property.
4. The Select Board, acting at its next regular meeting immediately following the expiration of the 90-day Policy period, will authorize the Town Treasurer to issue

quitclaim deeds for all properties in which all such outstanding taxes, costs, and interest were paid in full within the 90-day Policy period.

5. Any properties not issued a quitclaim deed to the prior owner will be brought before the Select Board for a determination of disposition. The Select Board shall determine the method of sale for properties that are owned or acquired by the Town. Methods of sale may include, but are not limited to, brokerage sale, negotiated sale, auction, or public bid process.
6. Under 36 M.R.S. § 942-943, upon notice of intent to sell tax acquired property, the Town of Livermore Falls shall hire a real estate broker to list and sell the property via quitclaim deed at the highest price at which the property is able to sell or at the price which the real estate broker anticipates it to sell within twelve (12) months after the listing , and pay the former owner any proceeds in excess of:
 - a. The sum of all taxes owed on the property;
 - b. 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;
 - c. All accrued interest;
 - d. 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;
 - e. Any other expenses incurred by the Town in selling or maintaining or improving the property, including, but not limited to, documented administrative costs and reasonable attorney's fees;
 - f. The cost to the Town of the lien and foreclosure process, including but not limited to, reasonable attorney fees; and
 - g. Unpaid sewer fees, liens, costs and reasonable fees imposed by the Town.

As a condition of receiving the excess proceeds from the sale of the tax acquired property, the former owner will be deemed to have waived any right to commence any action pursuant to 36 M.R.S. § 946-B.

The Notice of Intent to Sell form is included in the Policy as Appendix A.

If the prior owner of record makes full payment of all sums due on the said property, including the amount of tax, interest, and costs, before notice of public sale is given, the Treasurer shall release title to said real estate to its prior owner of record.

3. Waiver of Foreclosure

In those situations where it has been determined that it would not be the best interest of the Town to acquire the property, Town Meeting, as the legislative body of the Town, may authorize the Treasurer to record a waiver of foreclosure in the Registry pursuant to 36 M.R.S. § 944 provided that this determination is made before the right of redemption expires.

In those instances where it has been determined that it would not be in the best interest of the Town to acquire the property, and this determination has been made by Town Meeting prior to the issuance of the Notice of Impending Automatic Foreclosure under 36 M.R.S. § 943, the Select Board may instruct the Treasurer not to send the Impending Foreclosure Notice, thereby preventing the foreclosure from occurring.

4. Bid Procedure for Tax Acquired Property Not Subject to Special Sale Process and Other Town-Owned Property if Public Bid Process is the Method of Sale

All bids shall be submitted in writing and shall clearly identify the purchaser and the price bid for the property. Bids shall be placed in a sealed envelope clearly marked with the map and lot number and given to the Town Manager. The Town Manager shall hold all bids until the close of business on the day designated in the notice, when the bids shall be opened in public at the next Select Board meeting. Unless otherwise stated in the bid notice, the highest bid shall be the sole consideration for awarding the bid. The Select Board reserves the right to reject or accept any bid; furthermore, the Select Board reserves the right to withdraw the offer to sell the property.

The Treasurer is hereby authorized for and on behalf of the Town of Livermore Falls to make, execute, and deliver a Quitclaim Deed to convey the title to the purchaser.

5. Retention of tax-acquired property.

If the Town chooses to retain a tax acquired property for municipal use, the Town must procure an appraisal report from an appraiser licensed to provide real estate appraisals in the State of Maine showing the value of the tax-acquired property being retained. The appraiser may not hold an elected or appointed office in the Town of Livermore Falls or be otherwise employed by the Town. The Select Board, after providing a notice of intent to pay excess sale proceeds – included in the Policy as Appendix B - must pay the former owner any excess sale proceeds as calculated in subsection 6 (above) 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.

6. Notice of intent to pay excess sale proceeds.

If after the sale of a tax-acquired property there exist any excess sale proceeds as described in subsection 6 (above), at least 30 days prior to disbursement of those excess sale proceeds to the former owner, the Select Board must 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 and the last known address of each record holder of an interest in the tax-acquired property – included in the Policy as Appendix C. 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.

7. Notice by publication.

If the Town is unable, after reasonable diligence, to locate the former owner of a tax-acquired property in order to send the notice of intent to pay excess sale proceeds, the Town, once a week for 3 consecutive weeks, must place a notice in a newspaper of general circulation in Androscoggin County. The notice must 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.

8. Transfer of proceeds.

If, after provision of notice by publication, a former owner fails to claim the excess sale proceeds within 30 days of the final published notice, the Town must transfer the excess sale proceeds to the Unclaimed Property Fund under Title 33, section 2141.

9. Notice of payment of proceeds.

The Town, within 10 days of payment of any excess sale proceeds to the former owner under this section, must record in the registry of deeds of the county or registry district where the tax-acquired property is located a notice signed by the Select Board. 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 36 M.R.S. § 946-B.

Signed and approved by the municipal officers on _____

William Kenniston, Chair

Jim Long, Vice Chair

Jeffrey Bryant

Bruce Peary

John Barbioni

APPENDIX A_[RL1]

STATE OF MAINE, TOWN OF LIVERMORE FALLS
NOTICE OF INTENT TO SELL YOUR FORMER PROPERTY
(36 M.R.S. § 942-943)

**IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU HAVE 90 DAYS
TO RESPOND OR YOUR RIGHTS MAY BE FOREFEITED.**

DATE: _____

TO: _____

Re: NOTICE OF SALE OF TAX ACQUIRED/FORECLOSED PROPERTY

A real estate tax lien mortgage held by the Town of Livermore Falls for unpaid real estate taxes on your former property located at _____ (Tax Map ____, Lot ____) was foreclosed on _____. The Town of Livermore Falls now owns this property.

You are receiving this notice because the Town of Livermore Falls intends to sell this property. Pursuant to 36 M.R.S. § 943-C, the Town of Livermore Falls will list the property for sale with a real estate broker or agent for the highest reasonable price the property is anticipated to sell, and will convey the property via quitclaim deed to the successful buyer at the highest price at which the property is able to sell within 12 months after listing. Following the sale, the Town will pay to you, as the former owner, any excess sale proceeds, after deducting:

- 1) The sum of all taxes owed on the property; 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 of Livermore Falls;
- 2) All accrued interest;
- 3) Fees, including advertising, mailing, recording, property listing and real estate broker or agent's fees to the extent that those fees are not included in the broker or agent's fee agreement;
- 4) Any other expenses incurred by the Town in selling, maintaining, or improving the property, including documented administrative costs and reasonable attorney's fees;
- 5) The cost to the Town of the lien and foreclosure process, including but not limited to, reasonable attorney's fees; and
- 6) Unpaid sewer, water, or other utility charges and reasonable fees imposed by the Town

The Town of Livermore Falls will provide you, as the former owner, with a written accounting of the excess sale proceeds itemizing any deductions upon request. If the Town is unable, after 3 attempts, to contract with a real estate broker or agent, or the broker or agent is unable to sell the property within 12 months of listing, Town may sell the property in any manner authorized by the Town of Livermore Fall's legislative body and will pay to you any excess sale proceeds as calculated above.

Pursuant to 36 M.R.S.A. §943-C, “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. Note that pursuant to 36 M.R.S. § 943-C(6), receipt of excess sale proceeds by the former owner is deemed to be a waiver of any right of the former owner to pursue a title action under 36 M.R.S. § 946-B.

If you have any questions, please contact me at 207-897-3321 treasurer@lfme.org discuss this notice.

Sincerely,

Treasurer
Town of Livermore Falls
2 Main Street
Livermore Falls, ME 04254

APPENDIX B

**STATE OF MAINE
TOWN OF LIVERMORE FALLS
NOTICE OF INTENT TO DISTRIBUTE EXCESS SALE PROCEEDS
FORMER OWNER
(36 M.R.S. § 943-C)**

TO: [Name] [mm/dd/yyyy]
Address
City, State ZIP Code

A tax lien mortgage held by the Town of Livermore Falls for unpaid real estate taxes on your former property located in the Town of Livermore Falls referred to as [MAP/PLAN/LOT], was foreclosed on [DATE] at which time the Town took title to the property. The Town sold your former property on [DATE] in accordance with 36 M.R.S. § 943-C. After deducting the taxes, interest, and other expenses allowed by law, there are excess proceeds from the sale totaling \$ [AMOUNT].

This notice is to inform you that the Town intends to pay you, as the former owner, the excess sale proceeds totaling [AMOUNT] on [DATE].

The Town will provide you, as the former owner, with a written accounting of the excess sale proceeds itemizing any deductions upon request. 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 36 M.R.S. § 946-B.

Pursuant to 36 M.R.S. § 943-C, this notice has also been sent to the last known address of each record holder of an interest in your former property. This notice does not limit the right of a lienholder to pursue any claims to the excess sale proceeds against you, as the former owner, otherwise available by law.

Sincerely,

Treasurer
Town of Livermore Falls
2 Main Street
Livermore Falls, ME 04254

APPENDIX C

**STATE OF MAINE
TOWN OF LIVERMORE FALLS
NOTICE OF INTENT TO DISTRIBUTE EXCESS SALE PROCEEDS
RECORD HOLDER
(36 M.R.S. § 943-C)**

TO: [Name]
Address
City, State ZIP Code]

[mm/dd/yyyy]

A tax lien mortgage held by the Town of Livermore Falls for unpaid real estate taxes on the property formerly owned by [FORMER OWNER] located in the Town of Livermore Falls, referred to as [MAP/PLAN/LOT], was foreclosed on [DATE] at which time the Town took title to the property. The Town sold this property on [DATE] in accordance with 36 M.R.S. § 943-C. After deducting the taxes, interest, and other expenses allowed by law, there are excess proceeds from the sale totaling [AMOUNT].

This notice is to inform you, as a record holder of an interest in the property, that the Town intends to pay the former owner the excess sale proceeds totaling [AMOUNT] on [DATE].

Pursuant to 36 M.R.S. § 943-C, this notice has been sent to the last known address of the former owner as well as to the last known address of each record holder of an interest in the 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.

Sincerely,

Treasurer
Town of Livermore Falls
2 Main Street
Livermore Falls, ME 04254