

APPROVED

[Signature] 3/20/03
TAX FORECLOSURE PROGRAM POLICY

I. GENERAL

The Fairbanks North Star Borough (Borough) is charged with the collection of property taxes for the Borough and the cities of Fairbanks and North Pole. The property tax base is the main source of revenue and allows these governments to provide the many services that are available to all residents. The Tax Foreclosure process is the enforcement of this tax collection, as outlined in Alaska Statute and Borough Code of Ordinances, and ensures the tax base and sustainability of the Borough and cities.

II. PURPOSE

The purpose of the foreclosure process is to secure the payment of delinquent taxes, thereby preventing the erosion of funding for Borough services, which ensures that all taxpayers share the tax burden.

The goals of the Tax Foreclosure Program are to:

- A. Protect the funding of Borough facilities and programs by ensuring that delinquent property taxes are paid.
- B. Encourage everyone to pay taxes on time. The lower the number of delinquent properties, the less chance that the mil rate will have to be raised to compensate for the loss of revenue.
- C. Provide assurance to responsible taxpayers that all property owners will be held responsible for paying their portion of the tax burden.
- D. Afford all delinquent property owners, and those with a recorded interest in the subject property, with notice of delinquency to provide every opportunity to pay the property taxes prior to sale.
- E. Accurately account for the cost of the tax foreclosure process.
- F. Assure the administrative fees covering the cost of foreclosure incurred by the Borough are recouped from the delinquent taxpayer or the purchaser of the delinquent property at sale.
- G. Sell tax-foreclosed property at the annual Tax Foreclosure Sale after all required notifications have been provided.

III. RESPONSIBILITY

- A. The Land Management Director shall ensure that their department staff follows the procedure set forth in this policy.
- B. Land Management shall maintain this policy.

IV. POLICY

The Tax Foreclosure Program is accomplished through the implementation of the following policies.

A. Application of the Tax Foreclosure Process

1. All taxable properties are subject to foreclosure actions, regardless of the property owner's age, disability, nationality, exemption eligibility, etc.

B. Payments and Payment Deadline Policies

1. All payments of delinquent taxes, interest, penalties and fees must be in the form of guaranteed funds. At no time will a personal or business check be accepted for the payment of the delinquent taxes.
2. Full payment of the delinquent balance owed must be received in the Collections Office prior to the close of business on the specified dates to prevent further actions. Partial payments will not delay a fee or stop the foreclosure process.
3. The responsibility for the timely delivery of a wire transfer or mail sent containing a payment must remain with the party initiating such a transaction.

C. Mailings – Certified vs. Non-Certified

1. Notifications required by code or statute are sent by certified mail. All other notifications are sent by standard mail.
2. In the fall of the year prior to the annual tax foreclosed property sale, a courtesy notification of pending departmental foreclosure actions will be sent to the property owners at the address of record and to those parties of interest who have requested additional notification. This letter outlines the foreclosure process including the dates of action and upcoming fees.
3. In the following spring, mandated notifications of pending foreclosure are sent to all parties listed in the litigation reports with an interest in the property to afford the parties the opportunity to protect their interest.
 - a) The property owner/lien holder notification is sent certified mail to all owners of record and all interested parties. The addresses are compiled from the litigation reports and other research means, i.e. Internet, Motznic searches, PFD lists, etc.
 - b) Letters will be sent to all addresses found unless the address is proven invalid. Notifications of foreclosure will always be sent to the address of record, valid or not.
4. After the property owner/lien holder letters are sent, all further notifications are sent to the address of record, valid or not, and acknowledged addresses of the property owners.
5. It is the property owner's responsibility under FNSB C.O. 3.08.151 to provide the Borough with a current mailing address.

D. Litigation Reports

1. A litigation report is purchased for each property in the current foreclosure cycle and is updated twice prior to the sale.
2. The information contained within the report is for tax foreclosure purposes only and not to be used for private transactions.

E. Release of information

1. "Tax Facts" is an informational handout that gives tax foreclosure dates and a basic overview of common questions and answers regarding the tax foreclosure process. It is available to the public before parcel specific information is released.
2. A listing of current tax foreclosure properties becomes available to the public with the 60-day legal ad in the local newspaper after the property is taken on the tax deed in the first week of June. The 1st business day following this legal ad, information is made available for public review. This information includes a map, pictures, litigation report, assessment history, minimum bid, and any other pertinent information obtained throughout the foreclosure process. The property owner's date of birth or social security number will not be disclosed.
3. Prior to the 60-day legal ad, tax foreclosure personnel will have visited each property and will provide information regarding potential site inspection hazards, i.e. debris on property, health and safety condemnation, suspected contamination, etc. All prospective bidders are responsible for inspecting and thoroughly researching each property and should defer to the appropriate professionals and/or agencies for detailed information such as title companies, ADEC, lawyers, etc.
4. The Department does not mail tax foreclosure information on individual properties because the list of properties and information available to the public is always changing. Our goal is to ensure that all prospective bidders receive the same information from the Department; therefore we provide this information at the department counter only.

F. Advertising

1. Per FNSB C.O. 3.36.060, notice of the tax foreclosure sale/ auction will be published twice in the 60 days immediately preceding the sale/auction.

This notice will appear in the local paper approximately 60 days & 30 days prior to sale and be in the form of a legal ad. It will reflect the date, time, and location of the tax foreclosure sale, each property's file number, parcel account number, name(s) of the former record owner, situs address, assessed value and minimum bid.

2. Additional notification is made using the same information placed in a display ad once a week for 4 weeks prior to the sale.
3. All properties to be retained for public use will appear in a separate ad with the same information reflected above.

G. Inspections

1. Informal visual site inspections are done prior to filing the Tax Deed. They are done to ensure there is no new construction or other activity on the property that might not be reflected on a litigation report. Additionally, this offers an opportunity to complete an informal assessment for visual evidence of possible contamination of the site. If the site is potentially contaminated, the Alaska Department of Environmental Conservation (ADEC) will be contacted.
2. Pictures taken on the first site inspection are included within the foreclosure property books provided for public review.
3. After the Tax Deed is recorded, tax foreclosure personnel may proceed onto the property for further inspection. All tax foreclosure properties are posted with signs as an additional form of notification.
4. If not feasible to post the property due to access or other issues, a Tax Foreclosure notice will be posted in the Department of Land Management.

H. Hearings

1. Per Alaska Statute 29.45.460 and FNSB C.O. 3.36.060, annually, ordinances to either sell or retain property are submitted to the Borough Assembly. Within five days after it's first publication, a copy of the published "notice of hearing" of these ordinances must be sent by certified mail to the former record owner of the property. The letter references the pertinent ordinance number, time of the hearing and location of the hearing. The property owner is afforded an opportunity to testify at this public hearing.
2. Following the Borough Assembly's action on the tax foreclosure ordinances, notification is sent to the former record owner of the property. Included in this letter will be payoff figures should the former record owner want to repurchase the property, the sale date, and an explanation of the individual's right to claim excess proceeds if the property sells. This letter also serves notice that any personal property remaining on the land at the time of sale will be considered abandoned and will be handled in a manner deemed appropriate.

I. Retention of Properties

1. As allowed by Alaska Statute 29.45.450-460 and 29.45.490, a municipality has the right to retain a tax-foreclosed property for a public purpose. This applies to the Borough, City of Fairbanks and City of North Pole.
2. Within the Borough, the appropriate personnel requesting retention of property for public use must submit a written request to the Department of Land Management in a specified time frame. Before submitting such a request, a site inspection will be completed by the requesting Borough department to determine if the property is suitable for the intended use. If the requesting department has not inspected the property by the specified time frame, the request for retention will not proceed.
3. The cities of Fairbanks and North Pole must request retention of property for public use by a written request to the Department of Land Management in a specified time frame.

4. Retention of property shall be effective as of 5:00 p.m., the last business day preceding the annual tax foreclosure sale.

J. Suspected Contamination

1. With the passage of Senate Bill 110 (SB110) effective July 1, 1999, Codified as Alaska Statute 46.03.822, the Borough was immunized from pre-existing strict environmental liability on tax-foreclosed properties suspected or known to be contaminated.
2. Visual inspection by Tax Foreclosure Personnel of the property is necessary to determine if further actions are required including a review of (ADEC) files.
3. A two-part "Prospective Purchaser Agreement" will be established on property found to have a file with ADEC. The first part of the agreement is between ADEC and the Fairbanks North Star Borough.
4. The second part of the "Prospective Purchaser Agreement" is between ADEC and the prospective bidder for the property. It lays out the respective responsibility and liability of the bidder and ADEC.
5. If suspected contamination is found and no file has been previously established with ADEC, FNSB personnel will forward pertinent information to ADEC. A "Prospective Purchaser Agreement" may be established.

K. Sale

1. Pursuant to Alaska Statutes 29.45.400 and 29.45.470, any or all of the properties included for sale may be repurchased by the former record owner at any time up to 5:00 p.m. the day prior to the Tax Foreclosure Sale.
2. To participate in the Tax Foreclosure Sale, the prospective bidder must be capable of legally holding title to real property and free of any delinquent property taxes. Land Management personnel are ineligible to participate in the Tax Foreclosure Sale.
3. Tax foreclosure personnel shall advise prospective bidders to consult with appropriate professionals, such as architects, engineers, surveyors, title examiners, ADEC, or a real estate attorney, before making a decision to bid.
4. Borough personnel shall not offer any legal advice or interpret title documents.
5. The Fairbanks North Star Borough does not guarantee title to any properties or suitability for any particular use whatsoever on any parcel offered in the tax foreclosure sale. All properties are offered for sale "as-is" and "where is", without warranty of any kind. No representation or warranty, expressed or implied, is made as to the validity of the title, size, dimension, or condition of any property or its suitability for any use or purpose whatsoever or if title insurance will be obtainable. All bidders shall acknowledge this policy upon signing the "bidder receipt" form.

6. All bidders shall be advised by the Fairbanks North Star Borough to consult with ADEC regarding properties for any suspected contamination. The prospective bidder may establish a Prospective Purchaser Agreement for contaminated properties with ADEC. All bidders acknowledge that any agreement is strictly between the bidders and ADEC. No agreement or interpretation of any arrangements for necessary clean up or use of properties has been made with or implied by the Fairbanks North Star Borough.
7. The tax foreclosure sale shall consist of a two-part sale. The first portion of the sale will be a sealed bid sale, immediately followed by an outcry auction on any properties that did not receive a sealed bid. On both portions, the minimum bid consists of delinquent taxes, interest, penalty and administrative costs owed on the property.
8. Bid packets containing pertinent directions and forms will be made available to the public two weeks prior to the sale/auction date. Borough personnel will review all bid packet documents with the prospective bidder.
9. Sealed bids are accepted during regular Borough business hours Monday through Friday the week prior to the tax foreclosure sale. Before Borough personnel will accept the sealed bid packet, all bidders must acknowledge that they have reviewed the Bidder Receipt Form with staff by initialing and signing the form. It is the responsibility of the prospective bidder to review all forms, correctly submit the required documentation, and include a minimum of 25% of the bid amount in the form of certified check or money order when submitting a sealed bid. Land Management personnel may not assist in completing any documents within the bid packet.
10. The bidder must agree to hold the Fairbanks North Star Borough harmless relating to the suitability or insurability of foreclosure properties for any purpose. The bidder has to acknowledge that he has personally inspected and thoroughly researched the property and that his decision to bid is an informed one.
11. Bidders are made aware that property purchased in the sale/auction is not exempt from state or federal tax liens.
12. The high bidder will be responsible for payment of the current year's property taxes.
13. Upon opening the submitted bid packet, all sealed bids received must include at least 25% of the bid amount in the form of certified check or money order. If the bid deposit is in the form of cash or non-guaranteed funds, the bid will be considered non-responsive. All forms must be completed correctly to be a responsive bid as outlined in the bid packet. In the event of a tie-bid amount, the bid received first in the Land Management Office will be considered the high bid.
14. Once the bid packet is turned in, it becomes the property of the Department of Land Management and will not be returned until after the sale.

15. Any properties not receiving a sealed bid will be offered in the outcry portion of the tax foreclosure auction. A prospective bidder must purchase a bidder's card for \$250.00 in certified check, money order or cash the week prior to the sale during regular Borough business hours or on the day of sale prior to the outcry portion of the auction to participate.
16. All bidders must be present at the Tax Foreclosure Sale. Parties unable to attend sale/auction may have a representative with power of attorney authority represent them. Failure by the high bidder to attend or be represented at the sale will result in forfeiture of the bidder fee/deposit.
17. All high bidders must sign and execute the agreement to purchase form at the sale/auction and must pay the balance not later than the close of work 3 business days after the sale. The bidder's fee (deposit) will be credited at the time all balances due are paid. In the event that the agreement to purchase form is not signed at the time of sale, or if the balance is not received in the Department of Land Management by the close of work 3 business days following the sale, the bidder's fee (deposit) will be forfeited. Upon receiving full payment of the bid, a Tax Foreclosure Sale Deed will be issued to the successful bidder, without warranty of any kind. All bidders are made aware title insurance may not be available.
18. If the high bidder fails to complete the obligations stated in Policies 16 and 17, the property will be offered to the next highest bidder.
19. Deposits will be returned to low bidders or their representatives (with power of attorney) following the sale upon presentation of picture identification.

L. Eviction

1. If a property is occupied and does not sell in the Tax Foreclosure Sale, legal actions are taken to vacate the property.

M. Claim to Excess Funds

1. Excess funds are those funds in excess of the back taxes, interest, penalties, foreclosure fees or direct costs associated with a property for foreclosure. Subject to conditions of superior liens and timeliness of claim, the former record owner is entitled to excess funds upon signing a release of all interest and providing any additional information that may be required to support the claim.
 - a) Superior liens, i.e. State and Federal tax liens that qualify under Alaska Statute 29.45.450, are entitled to make claim to excess funds within 21 days after the date of notification of excess funds. Additionally, the Child Support Enforcement Division may also make claim to the funds.
 - b) Per Alaska Statute 29.45.480, parties having a proper claim for excess funds have 6 months from the date of notification of excess funds to make claim for the excess funds. If a property sells at any time within a ten-year time frame through the tax foreclosure sale, the former record owner may make claim to the excess funds.

V. PROCEDURE

A. None.

VI. SUPPLEMENTAL INFORMATION

A. References –

1. Alaska Statutes 29.45.290 - 500
 - AS 29.45.400 Redemption period
 - AS 29.45.450 Deed to borough or city
 - AS 29.45.460 Disposition and sale of foreclosed property
 - AS 29.45.470 Repurchase by record owner
 - AS 29.45.480 Proceeds of tax sale
 - AS 29.45.490 Payment of taxes upon public utilization
2. Alaska Statute 46.03.822 Strict liability for the release of hazardous substances
3. FNSB C.O. 3.08.151 Addresses – Responsibility of persons subject to taxation
4. FNSB C.O. 3.32.010 -140 and 3.36.010 – 080
 - FNSB 3.36.060 Disposition and sale of foreclosed property

B. Definitions – None.

C. Attachments – None.

D. Revision History

Supersedes Policy No.	Effective Dates
None.	None.