

PROCEDURES FOR THE TAX SALE AND ASSESSING
ADMINISTRATIVE COSTS TO DELINQUENT PROPERTIES

(Amended March 16, 2004, Ordinance 2004-4)

WHEREAS, Section 59-2-1351.1(2) of the Utah Code charges the Utah State Tax Commission to establish, by rule, minimum procedural standards applicable to tax sale and the county legislative body upon recommendation by the county auditor to establish procedures, by ordinance, for the sale of the delinquent property that best protects the financial interest of the delinquent property owner and meets the needs of local governments to collect delinquent property taxes;

WHEREAS, the County incurs costs of administration when executing a tax sales pursuant to the Utah Code;

WHEREAS, Section 59-2-1351 of the Utah Code requires the County Auditor to select a date for the tax sale and notice of tax sale shall be sent by certified and first class mail to the last-known recorded owner;

WHEREAS, in accordance with the authority granted by Utah Code Annotated; and

NOW THEREFORE, the Board of County Commissioners of Weber County ordains as follows:

6-20-1 **Fees.**

A fee of \$75 will be assessed for each delinquent parcel being certified for tax sale. In addition, an administrative fee will be added to any delinquent parcel on which independent title company costs are incurred. These administrative fees shall be added to the taxes, penalties and interest outstanding on each delinquent property to cover a proportional share of the costs of administration.

6-20-2 **Bidding.**

6-20-2.1 Before being allowed to participate in the bidding process, each person desiring to bid shall register with the Weber County Clerk/Auditor the morning of the tax sale by filling out Form WCA 402 - "Bidder Registration" form. Upon receipt of the Bidder Registration form, the Weber County Clerk/Auditor (the "Clerk/Auditor") will issue each bidder a "Bidder Number". No individual shall be allowed to bid without a bidder number.

6-20-2.2 The Clerk/Auditor shall open the bidding at an amount not less than the sum of taxes, penalties, interest and administrative costs owed on the property. This shall be the lowest acceptable bid for any particular property. After receipt of a minimum bid, higher bids shall be solicited.

6-20-2.3 The Clerk/Auditor shall only recognize bidders by their bidder number. The bidder number first recognized by the Clerk/Auditor shall be the first bid recorded. The bid recognized is the one in effect at the time. The Clerk/Auditor reserves the right to specify bidding increments.

6-20-2.4 The final bidder number announced by the Clerk/Auditor shall be the official buyer, which will be the highest bid amount and the bidder will pay the County Treasurer the accepted bid amount in cash or bank certified funds within the prescribed time.

6-20-2.5 Only the entire parcel of property being auctioned will be sold. No property will be reduced in size at the auction. Any amount received in excess of the taxes, interest, penalties and administrative costs of the delinquent property shall be

treated as unclaimed property, pursuant to Title 67, Chapter 4a, of the Unclaimed Property Act of the Utah Code.

- 6-20-2.6 All final bids are considered conditional, whether or not the bid is contested, until the Board of County Commissioners (the “Commission”); acting at a regularly scheduled meeting, formally ratify the final bid for the final sale.
- 6-20-2.7 Collusive bidding practices are prohibited. Collusive bidding, for purposes of these procedures, means any agreement or understanding reached by two or more parties that changes the bids the parties would otherwise offer absent the agreement or understanding. The Clerk/Auditor reserves the right to reject any bid that the Clerk/Auditor deems to be a product of collusion.
- 6-20-2.8 The successful bidder of a property may not unilaterally rescind the bid once the Clerk/Auditor has closed the bidding. The Commission may enforce the terms of the bid by obtaining a legal judgment against the purchaser in the amount of the bid plus reasonable interest and attorney’s fees.
- 6-20-2.9 The Commission may find that none of the bids are acceptable.
- 6-20-3 **Redemption Procedures.**
- 6-20-3.1 Delinquent property certified for tax sale may be redeemed on behalf of the record owner by any person at any time prior to the final tax sale and obtain a certificate of redemption. All property redeemed within the three (3) weeks prior to the tax sale must be redeemed through the office of the County Treasurer (“Treasurer”). The Treasurer will only accept cash or bank certified funds to redeem the property.
- 6-20-3.2 A person redeeming the delinquent property must pay to the Treasurer all delinquent taxes, interest, penalties and all administrative costs that have been accrued on the property.
- 6-20-3.3 The owner of the delinquent property being sold shall have the first right of redemption at the time of the tax sale.
- 6-20-4 **Criteria for Granting Bidder Preference.**
- 6-20-4.1 Properties meeting the following criteria shall be sold without competitive bidding as an entire parcel only if:
- A. The Clerk/Auditor has determined that the property is not an economically viable unit of property to anyone other than someone with a preferential interest. Characteristics such as size, shape, access, zoning or any other factors that may affect the economic value and use of the property will be used in determining the economic viability of the property; or
- B. The sale of the property to a non-preferential interest would create a nuisance or detrimentally affect and/or cloud the existing interest in the property and could unreasonably diminish the value of that interest.
- 6-20-4.2 The priority of interest in any property shall be as follows:
- a. First priority is given to any possessory interest; and
- b. Second priority is given to abutting property owners if no possessory interest exists.

6-20-4.3 If there is a conflict between two or more possessory interests or two or more abutting property owners, the Clerk/Auditor may auction the property between the parties that have conflicting possessory interests.

6-20.5 **Payment Methods and Procedures.**

6-20-5.1 The successful bidder shall pay the Treasurer in cash or bank certified funds. The Treasurer may accept a personal check as a deposit at the time of the tax sale with the understanding that the successful bidder will tender cash or bank certified funds for the entire amount of the sale to the Treasurer by 5 p.m. on the day of the sale.

6-20-5.2 If the amount of the sale exceeds \$2,000, the successful bidder may pay a non-refundable deposit of \$1,000 paid in cash or bank certified funds. The balance of the sale shall be paid to the Treasurer within five (5) working days from the day of the sale.

6-20-5.3 The Treasurer will not accept payment without the signed Form WCA 404–Weber County Tax Sale Property Purchase Slip.

6-20-6 **Unsold Properties Struck-Off to the County.**

Any property offered for sale for which there is no purchaser shall be struck off to the county by the Clerk/Auditor, who shall then:

A. publicly declare as follows: “All property here offered for sale which has not been struck off to a private purchaser is hereby struck off and sold to the county of Weber, and I hereby declare the fee simple title of the property to be vested in the county”;

B. Endorse the delinquency tax sale record as follows: “The fee simple title to the property described in this entry in the year of tax sale, sold and conveyed to the County of Weber in payment of general taxes charged against the property”; and

C. Sign the record.

6-20-7 **Properties Withdrawn from the Tax Sale for Reasons Other than Redemption.**

6-20-7.1 The Clerk/Auditor may withdraw the following properties from the tax sale:

A. any property having a title deficiency;

B. any property having a deficient description;

C. any property having any other similar deficiency; or

D. any property which, in the best interest of the public, should be withdrawn.

6-20.7.2 The Clerk/Auditor may re-certify to a subsequent tax sale any withdrawn property if the cause of the original withdrawal has been remedied. The Commission shall approve in writing any re-certification.

6-20-8 **Contesting Bids and Sales.**

Any person wishing to contest any action taken in conjunction with the tax sale shall file a written protest containing all relevant information and arguments with the Commission within ten (10) days after the date of the tax sale. The Commission will review the submissions and render a decision based upon that information; The Commission shall not grant a hearing to those contesting a bid.

6-20-9 **Sale Ratification Procedures.**

All accepted bids will be submitted to the County Commission for ratification ten (10) days from the date of the tax sale.

6-20-10 **Procedures for Recording Tax Deeds.**

6-20-10.1 Upon full payment of the amount including taxes, penalties, interest and all administrative costs, the Treasurer will issue a receipt. Within thirty (30) days of the date of the tax sale and after ratification by the Commission, the Clerk/Auditor will execute deeds conveying in fee simple to the purchaser and attest this with the seal.

6-20-10.2 When the deed is executed and delivered by the Clerk/Auditor, it shall be prima facie evidence of the regularity of all proceedings subsequent to the date the taxes initially became delinquent and of the conveyance of the property to the grantee in fee simple.

6-20.10.3 The deed issued by the Clerk/Auditor shall be recorded by the County Recorder.

6-20-10.4 The Clerk/Auditor will use the information provided on the Bidder Registration form in preparing the "Tax Deed".

6-20-11 **Disclaimer on Property Sold.**

6-20-11.1 All properties sold during the tax sale shall be conveyed by a Tax Deed. A Tax Deed is not a warranty deed and the County makes no representations as to the title conveyed or the purchaser's right of possession of the property as certain entities or persons, including but not limited to agencies or divisions of both the state and federal government, may have certain rights of redemption. Therefore, buyers of properties at the tax sale make any purchase at their own risk.

6-20-11.2 The County makes no warranties or representations as to whether the property purchased is suitable for building or developing, nor does the County make any representations that the property complies with the applicable zoning regulations.

6-20-11.3 The county makes no warranties or representations that any property purchased during the tax sale is habitable or in any particular condition.

6-20-11.4 The county makes no warranties or representations regarding the accuracy of the assessment of the property or the accuracy of the description of the real estate or improvements.

COLLUSIVE BIDDING ADMONITION

Please take notice that both state and federal antitrust laws prohibit collusive bidding at County Tax Sales. Collusive bidding is any secret agreement or cooperation especially for an illegal or deceitful purpose.

Examples of collusive bidding agreements include, but are not limited to:

1. Agreements between bidders on the dollar amount they will bid for a property, whether the agreement is that bids will not be less or more than a certain price.
2. Agreements between bidders as to which bidders will or will not bid on a property.
3. Agreements between bidders in which one or more bidders agree to accept something of value not to attend, not to participate in the bidding or to leave.
4. Agreements between bidder designating who will make the winning bid for a property.
5. Sham agreements between bidders to form temporary business entities, (partnerships, joint ventures, etc.) for purposes of bidding as one block to avoid bidding against each other.

Any person convicted of collusive bidding may be punished as follows:

1. Under Utah law, by a fine not to exceed \$500,000 if a corporation; or if an individual, by a fine not to exceed \$100,000 or imprisonment not to exceed three years, or both.
2. Under federal law, by a fine not to exceed \$10,000,000 if a corporation; or if an individual, by a fine not to exceed \$350,000 or imprisonment not exceeding three years, or both.

In addition, you may be subject to an action for injunctive relief and for three times the damages caused by the collusive bidding.

Cannot Better Title at Tax Sale

The Courts have determined that a lien holder, a party with ownership interest or a party responsible for taxes may not strengthen title to a property by purchase at a tax sale.