

*Clerk of Council*



# CITY OF NEW BEDFORD

## CITY COUNCIL

September 13, 2018

### RELATED MOTION

Requesting, that the Committee on Ordinances take a look at the current Abutter Lots Program and Ordinance, to see what improvements can be made to acquiring and moving these properties onto the tax roll; and further, that the Committee meet with Tax Title Attorney to give the City Council an explanation as to why the process is so complicated to roll over these vacant and abutting lots from the City onto the tax roll which would improve the look and the quality of these neighborhoods throughout the City; further, that any lots that abut non-owner occupied property that the City hold a public auction for those lots to dispose of surplus properties.

Brian K. Gomes, Councillor at Large  
Joseph P. Lopes, Councillor Ward Six

IN CITY COUNCIL, September 13, 2018

Referred to the Committee on Ordinances.  
a true copy attest:

Dennis W. Farias, City Clerk

City Clerk

#3

## Sec. 2-104. - Disposal of foreclosed tax title property.

- (a) *[Methods.]* The city treasurer shall dispose of foreclosed tax title property through the abutter lots program, or through public auctions, to be held on a semiannual basis, or in accordance with the provisions of M.G.L.A., c. 30B, or through transferring to the city property committee those parcels, which are to be maintained by the city for municipal purposes and for which the treasurer has received notice.
- (b) *Definitions.* [The following terms, when used in this section, shall have the meanings ascribed to them in this subsection:]

*Abutter lots program* means a program developed to provide an abutting landowner with the first opportunity to acquire an abutting parcel foreclosed for tax title. Regulations for the program shall be promulgated and periodically published by the city treasurer.

*Decrees of foreclosure* means a decree issued by the Land Court Department of the Trial Court of Massachusetts, which forever bars all rights of redemption (M.G.L.A. c. 60, § 69).

*Foreclosed tax title property* means property for which the city has obtained a decree of foreclosure from the Land Court Department of the Trial Court of Massachusetts.

*Parcel eligible for abutter lots program* means a parcel for which a decree of foreclosure has been obtained by the treasurer, which contains less than the minimum square footage requirement for a buildable lot, is located adjacent to a privately owned building on at least one side, is not needed for public open space or other public use, and is not part of a larger vacant parcel which will be developed. Abutter lots may be used only for a garden, side yard, landscaped open space, off-street parking, garage, or addition to abutter's existing structure.

- (c) *Property eligible for abutter lots program.* The city treasurer shall dispose of foreclosed tax title property eligible for the abutter lots program in the following manner:
- (1) Within fifteen (15) calendar days from the date the treasurer receives the decree of foreclosure, the treasurer shall send a letter notifying the mayor, city council and all city departments that the city has foreclosed on a parcel of property. The letter shall specify the approximate square footage and location of the property and shall further state that the parcel will be placed into the abutter lots program unless the treasurer receives written notification, within thirty (30) days from the date the treasurer's

communication appears on the city council agenda, that the mayor, city council or city department has a need for the parcel. Control of all parcels needed for a municipal purpose, which are to be maintained in the possession of the city as municipal property, shall be turned over to the city property committee.

- (2) After the thirty-day period has expired, the treasurer shall send a notice to the owner of record immediately prior to the acquisition by the city of the title to such property. Such notice shall contain a description of the property to be sold sufficient to identify it, shall state that the property has been placed in the abutter lots program, and shall state the date, time and place appointed for the sale thereof and the terms and conditions of such sale, and shall be sent by certified mail, return receipt requested, to the address of such owner, as appearing upon the records of the assessors of the city, at least fourteen (14) days before the sale. The treasurer shall also, not less than fourteen (14) days before such sale date, post a similar notice in two (2) or more convenient and public places in the city. The treasurer may reject any and all bids at such sale or any adjournment thereof if, in his opinion, no bid qualifies under the request for proposal. After any such sale and upon payment by the purchaser to the city of the amount of a bid accepted by the treasurer, the treasurer on behalf of the city, shall execute and deliver any instrument necessary to transfer the title of the city to any such property sold under this section. The deed shall contain a covenant, running with the land, limiting future use of the property to those uses permitted under the abutter lots program. The treasurer shall not execute any deeds for tax title property until the purchaser submits to the treasurer a statement signed under the pains and penalties of perjury that neither he nor any person who would gain equity in the property as a result of such conveyance has ever been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or of a crime involving the fraudulent filing of a claim of fire insurance; or is delinquent in the payment of real estate taxes to the city, or, if delinquent, that a pending application for abatement of such tax, or a pending petition before the appellate tax board or the county commissioners has been filed in good faith. If there is more than one grantee of such deed, each grantee must file such statement, and no such deed shall be valid unless

it contains a recitation that the treasurer has received such statement. Said deed shall further contain a covenant, running with the land, requiring the purchaser to complete the clean up and reuse of the property proposed in their abutter's lot program application within one year of the date of transfer. Said one year time period may be extended for an additional six (6) months provided the purchaser has applied for any and all permits necessary to complete their proposed work. The city shall have the option in the deed, pursuant to the preceding covenants, to take the property back or to bring an action in equity to enforce the terms of the covenants.

- (3) All parcels included in the abutter lots program shall be offered for sale to qualified abutters, in accordance with the regulations governing the abutter lots program.
- (4) All parcels for which a decree of foreclosure has been received by the treasurer between January 1 and June 30 shall be auctioned in the following September. All parcels for which a decree of foreclosure has been received by the treasurer between July 1 and December 31 shall be auctioned in the following March.
- (5) If a parcel has not been disposed of after having been for the first time offered for sale through the abutter lots program, it shall then be disposed of in the same manner as tax title property which is not eligible for the abutter lots program. Notwithstanding the previous sentence, if the parcel has still not been disposed of, it may then be offered again through the abutter lots program, or any other method for disposition of such parcels contained in these ordinances.
- (6) Notwithstanding the provisions of subsection (b), a lot acquired through the abutter's lots program may be combined with an adjacent lot also acquired through the abutter lots program to form a "combined lot." Such combined lot shall not be subject to the restrictions set forth in the restrictive covenant and may then be developed in accordance with the relevant provisions of the city Code of Ordinances, provided that the combined lot satisfies then existing zoning, subdivision and building requirements without relief from the City Code sections regarding front yard, side yard, rear yard, floor-to-area

ratios, lot size, density, or frontage. No other property may be considered as part of the combined lot in determining whether such combined lot satisfies the relevant sections of the City Code.

(d) *Property not eligible for abutter lot program.* The city treasurer shall dispose of foreclosed tax title property, which is ineligible for the abutter lots program or which previously has been submitted for auction one time through the abutter lots program, and which the treasurer will not be transferring to the city property committee only in either of the following two (2) ways, at the option of the treasurer:

(1) *Auction.*

- a. With exception of property which has previously been submitted for auction through the abutter lots program, within fifteen (15) calendar days from the date the treasurer receives the decree of foreclosure, the treasurer shall send a letter notifying the mayor, city council and all city departments that the city has foreclosed on a parcel of property. The letter shall specify the approximate square footage and location of the property and shall further state that the parcel will be auctioned by the city treasurer unless the treasurer receives written notification, within thirty (30) days of said notice, that the mayor, city council or city department has a need for the parcel.
- b. The treasurer shall send a notice to the owner of record prior to the auction by the city of such property. Such notice shall contain a description of the property to be sold sufficient to identify it; shall state the date, time, and place appointed for the sale thereof and the terms and conditions of such sale; and shall be sent by registered mail to the address of such owner as appearing upon the records of the assessors of the city, at least fourteen (14) days before the auction date.
- c. In addition to the notice provisions of subsection (b) above, the treasurer shall also, not less than fourteen (14) days before such appointed date, post a notice of all property to be auctioned, in two (2) or more convenient and public places in the city, as well as in a newspaper of general circulation in the city.
- d.

The treasurer may reject any and all bids at such sale or any adjournment thereof if, in his opinion, no bid is made which approximates the fair market value of the property.

- e. After any such sale and upon payment by the purchaser to the city of the amount of a bid accepted by the treasurer, the treasurer, on behalf of the city, shall execute and deliver any instrument necessary to transfer the title of the city to any such property sold under this section. The treasurer shall not execute any deeds for tax title property until the purchaser submits to the treasurer a statement signed under the pains and penalties of perjury that neither he nor any person who would gain equity in the property as a result of such conveyance has ever been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or of a crime involving the fraudulent filing of a claim of fire insurance; or is delinquent in the payment of real estate taxes to the city, or, if delinquent, that a pending application for abatement of such tax, or a pending petition before the appellate tax board or the county commissioner has been filed in good faith. If there is more than one grantee of such deed, each grantee must file such statement, and no such deed shall be valid unless it contains a recitation that the treasurer has received such statement.
  - f. In the case of parcels to be offered at auction, parcels for which a decree of foreclosure has been received by the treasurer between January 1 and June 30, and all parcels remaining from the September abutter lots auction, shall be auctioned in the following October. All parcels for which a decree of foreclosure has been received by the treasurer between July 1 and December 31, and all parcels remaining from the March abutter lots auction shall be auctioned in the following April. Properties remaining after an auction would be re-advertised for successive auctions or offered under subsection 2-104(d)(2) until sold.
- (2) *Procedures for selling or renting real property or any interest therein - M.G.L.A. c. 30B.*

- a.

The city treasurer may determine to sell or rent real property or any interest therein other than under the abutter lots program or at auction and shall do so only in accordance with the provisions of M.G.L.A. c. 30B.

- b. Within fifteen (15) calendar days from the date the treasurer receives the decree of foreclosure, the treasurer shall send a letter notifying the mayor, city council and all city departments that the city has foreclosed on a parcel of property. The letter shall specify the approximate square footage and location of the property and shall further state that the city will solicit proposals for selling or renting such property or any interests therein unless the treasurer receives written notification, within thirty (30) days of said notice, that the mayor, city council or city department has a need for the parcel.
- c. The treasurer shall send a notice to the parcel's owner of record at the same time as there is the first newspaper advertisement inviting the submission of proposals by the city. Such notice shall contain a description of the property to be sold sufficient to identify it, and shall specify the geographical area, terms and requirements of the proposed transaction and the time and place for the submission of proposals.
- d. The city treasurer shall sell or rent such property by soliciting proposals in accordance with the applicable provisions of M.G.L.A. c. 30B, § 16, as amended and the purchasing agent as the city's chief procurement officer shall be responsible for compliance with the provisions of M.G.L.A. c. 30B.
- e. The purchasing agent, as chief procurement officer, may pursuant to the provisions of M.G.L.A. c. 30B, § 9, cancel an invitation for bids and request for proposals or may reject in whole or in part any and all bids or proposals when the purchasing agent determines that cancellation or rejection serves the best interests of the city.
- f. After any such sale and upon payment by the purchaser to the city of the amount of a bid accepted by the city, the treasurer, on behalf of the city, shall execute and deliver any instrument necessary to transfer the title of the city to any such property sold under this section. The treasurer shall not execute any deeds or leases for tax title property until the purchaser submits to the treasurer a statement signed under

the pains and penalties of perjury that neither he nor any person who would gain equity or any interests in the property as a result of such conveyance or lease has ever been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or of a crime involving the fraudulent filing of a claim of fire insurance; or is delinquent in the payment of real estate taxes to the city, or, if delinquent, that a pending application for abatement of such tax, or a pending petition before the appellate tax board or the county commissioner has been filed in good faith. If there is more than one grantee of such deed or lessee of such lease, each grantee and lessee must file such statement, and no such deed or lease shall be valid unless it contains a recitation that the treasurer has received such statement.

(Ord. of 4-25-96, § 2; Ord. of 10-16-06, § 1; Ord. of 11-26-08, § 1)

**Editor's note**— Section 2 of an ordinance adopted April 25, 1996, amended Ch. 2, of the Code by adding §§ 2-104.1—2-104.4. For purposes of classification, such provisions were included herein as § 2-104 at the discretion of the editor.