

**THE BURKE COUNTY POLICY
REGARDING THE SALE OF SURPLUS REAL PROPERTY OWNED BY BURKE COUNTY**

Purpose- The purpose of this policy is to establish a system that will promote a fair and effective means for anyone to purchase property that Burke County has obtained at a tax foreclosure sale, through a private bid process.

Authority- Burke County hereby adopts this policy under the authority granted by North Carolina General Statutes 105-376(c), 153A-176, 160A-267, and 160A-269. All of said statutes are fully set forth in Appendix A.

**Section I.
Overview of Bid Process**

1. Burke County will accept bids on real property which Burke County has obtained through a property tax foreclosure proceeding. These parcels are identified by a Parcel Identification Number (PIN) assigned by the Burke County Land Records Department.
2. Any bids received on property declared as surplus by the Board of Commissioners must include the Offer to Purchase and the entire bid amount. This bid must be submitted to the County Attorney.
3. The minimum bid amount is the amount predetermined by the County plus any delinquent taxes that may be owed the County and/or the Municipality.
4. The County Attorney will accept the bid deposit and begin the advertisement process
5. The property shall be advertised in a newspaper of local circulation as a "Notice of Offer". Such notice shall state that any person may raise the bid by an amount of \$750.00 or 5% of the bid, whichever sum is greater, anytime thereafter within ten (10) days of the date of publication.
6. Ten (10) days from the date of publication shall be allowed for any upset bids. Any upset bid must increase the prior bid by an amount not less than \$750.00 or 5% whichever is greater, in order to be a valid upset bid. If no upset bids are received in the ten (10) day period, the offer shall stand and the County Attorney shall accept the offer and finalize the sale.
7. If an upset bid is received during the ten (10) day period, the upset bidder shall deposit with the County Attorney an upset bid deposit in the amount of the original bid plus \$750.00 or 5% whichever is greater.
8. Ten (10) days from the date of publication will again be allowed for any other upset bids. If no other upset bids are received in the ten (10) day period, the offer shall stand and the County Attorney shall accept the offer and finalize the sale.
9. If a valid bid is received within the ten (10) days following the publication of a bid, the upset bid shall be processed in accordance with paragraphs six (6) and seven (7) above.
10. The entire process shall continue until a ten (10) day period passes following the date of publication of a bid without any further upset bids being received. At this point in time, the last bid received shall stand and the County Attorney will accept the offer and finalize the sale.
11. After the offer is finalized, the County Attorney shall execute a Special Warranty Deed to the bidder.
12. The Burke County Board of Commissioners may at any time reject any bid received.

Section II.
Upset Bid Process

This procedure shall be the same as in Section I except for the following:

A. Amount of Upset Bid

1. The amount of the upset bid must raise the prior bid by \$750.00 or 5% whichever is greater.

B. Responsibility of Upset Bidder

1. The bidder shall submit any upset bids to the County Attorney along with Offer to Purchase Information Sheet and a full deposit which includes the original bid amount plus the upset amount.

C. Responsibility of the County Attorney

1. The County Attorney must receive the Offer to Purchase. The County Attorney shall be responsible for making sure that the amount of the upset bid exceeds the prior bid by at least \$750.00 or 5% whichever is greater.
2. The County Attorney shall collect the bid amount in full at the same time as the Offer to Purchase is filled out.
3. Upon receipt of an upset bid, the County Attorney shall prepare a new "Notice of Offer" and deliver it for immediate publication to the newspaper of local circulation. The ad shall run once.
4. The County Attorney shall note the date the ad will appear in the paper on the copy. The County Attorney shall request the newspaper to send an Affidavit of Publication to the County Attorney after publication.
5. If ten (10) days pass without receipt of an upset bid, the County Attorney shall proceed according to the County Attorney's responsibilities in Section VI Part C. If another upset bid is received, the County Attorney shall proceed according to the provisions in this section.
6. Only one (1) upset bid may be received in a ten (10) day period. As soon as an upset bid is received, it shall be advertised immediately, and a new ten (10) day period for upset bidding shall commence from the date of publication of the upset bid.

Section III
Prior Owners

1. The Burke County Board of Commissioners may, in its discretion, "resell such property to the former owner, or to any other person having an interest in the property at a private sale for an amount not less than the taxing unit's interest therein plus any taxes due if it holds the property as sole owner or for an amount not less than the total interests of all taxing units (other than special assessments due the taxing unit holding title) if it holds the property for the benefit of all such units." N.C.G.S.105-376(c). The procedures outlined in N.C.G.S. 160A-267 governing private sales shall be followed.
2. The County Attorney's Office shall proceed in exactly the same manner for prior owners or other interest holders as is set out in Section VI, Part C. The County Attorney shall collect all documentation and have it available at the meeting at which the Board of Commissioners considers the bid of the prior owner or other interest holder.
3. The County Attorney shall bring the matter before the Board of Commissioners for their consideration and decision. The County Attorney shall further be responsible for preparing the Resolution authorizing the private sale for signature by the Chairman of the Board of Commissioners.

4. A notice summarizing the contents of the Resolution shall be published in the local newspaper one time. The County Attorney shall be responsible for the advertisement. The former owner (or other interest holder) shall be required to pay the advertising cost before a notice is published.
5. After the notice has been published and a ten (10) day period has passed, the County Attorney shall prepare a quitclaim deed transferring the property to the former owner (or interest holder). The County Attorney shall be responsible for making sure that the entire amount of the sales price authorized by the Board of Commissioners is paid before transferring the deed to the former owner (or interest holder).
6. The former owner (or interest holder) shall be responsible for recording the quitclaim deed.
7. If Burke County receives a public bid on property which it has acquired at a tax foreclosure sale, Burke County will no longer negotiate private sales with prior property owners or other interest holders.

Section IV Bid Exception

1. The Tax Assessor along with the County Attorney may request the Board of Commissioners to accept a bid less than the minimum amount established if the Assessor and Attorney believe it is in the County's best interest.
2. The Burke County Board of Commissioners may at any time reject any bid received.

Section V Minimum Bid

1. The minimum bid amount is based on the cost the county has in the property plus advertising fees of \$125.00 and attorney fees of \$500.00.

Section VI Responsibility of Parties

A. Responsibility of Personnel

1. The Tax Assessor shall maintain a list of all surplus real property.
2. The County Tax Collections Office shall provide a statement of any county or fire district taxes due when requested.
3. The Municipal Tax Collections Office shall provide a statement of any municipal taxes due when requested.

B. Responsibility of Initial Bidders on Foreclosed Property

1. Any person interested in buying foreclosed property in Burke County shall first obtain the parcel identification number and inquire about any taxes owed the County and/or Municipality.
2. After obtaining this information, the bidder must submit his bid to the County Attorney. The bidder must identify the property by the parcel identification number before the County Attorney will accept the bid.
3. The bidder shall complete the necessary form(s), including the Offer to Purchase. The information includes the bidder's name, address, telephone number, the parcel identification number, and the amount of his or her bid. The bidder is required to sign the necessary documents.

4. For the County Attorney to accept the offer, the bidder must include the bid amount in full.
5. If the initial bid is not upset within the ten (10) days after it is advertised, the County Attorney will, accept the bid and finalize the sale. The bidder shall be responsible for recording the deed.

C. Responsibility of County Attorney

1. The County Attorney must receive the Offer to Purchase and the entire bid amount to accept a bid.
2. Upon receipt of a bid the County Attorney shall perform a title examination and render a title opinion of the foreclosed property.
3. Once the ten-day period has passed following the publication of a bid without the receipt of further bids, the County Attorney shall be responsible for the preparation of all necessary documents associated with the sale process and finalizing the sale.
4. A Special Warranty Deed signed by the Chair of the Board of Commissioners will transfer ownership to the successful bidder.

This policy regarding the Sale of Real Property owned by Burke County as a result of a Tax Foreclosure Sale is hereby approved, this 16th day of November, 2010.

BY: THE BURKE COUNTY BOARD OF COMMISSIONERS

, _____
Chairman

ATTEST:

Clerk to the Board

Appendix A

North Carolina General Statute 105-376(c)

Resale of Real Property Purchased by Taxing Units

“Real property purchased at a tax foreclosure sale by a taxing unit may be resold at any time (for such price as the governing body of the taxing unit may approve) at a sale conducted in the manner provided by law for sales of other real property of the taxing unit. However, a purchasing taxing unit, in the discretion of its governing body, may resell such property to the former owner or to any other person formerly having an interest in the property at private sale for an amount not less than the taxing unit’s interest therein if it holds the property as sole owner or for an amount not less than the total interests of all taxing units (other than special assessments due the taxing unit holding title) if it holds the property for the benefit of all such units.”

North Carolina General Statute 153A-176

Disposition of Property

“A county may dispose of any real or personal property belonging to it according to the procedures prescribed in Chapter 160A, Article 12. For purposes of this section, references in Chapter 160A, Article 12, to the “city”, the “council”, or a specific city official are deemed to refer, respectively, to the county, the board of commissioners and the county official who most nearly performs the same duties performed by the specified city official. For purposes of this section, references in G.S. 160A-266(c) to “one or more city officials” are deemed to refer to one or more county officials designated by the board of county commissioners.”

North Carolina General Statute 160A-267

Private Sale

“When the council proposes to dispose of property by private sale, it shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property by private sale at a negotiated price. The resolution or order shall identify the property to be sold and may, but need not, specify a minimum price. A notice summarizing the contents of the resolution or order shall be published once after its adoption, and no sale shall be consummated thereafter until ten (10) days after its publication.”

North Carolina General Statute 160A-269

Negotiated Offer, Advertisement and Upset Bids

“A city may receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids. When an offer is made and the council proposes to accept it, the council shall require the offeror to deposit five percent (5%) of his bid with the city clerk, and shall publish a notice of the offer. The notice shall contain a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. When a bid is raised, the bidder shall deposit with the city clerk five percent (5%) of the increased bid, and the clerk shall re-advertise the offer at the increased bid. This procedure shall be repeated until no further qualifying bids are received, at which time the council may accept the offer and sell the property to the highest bidder. The council may at any time reject any and all offers.

Addendum B: Offer to Purchase Tax Foreclosed Property

**NORTH CAROLINA OFFER TO PURCHASE
COUNTY OF BURKE TAX FORECLOSED PROPERTY**

THE PROPERTY DESCRIBED BELOW, having been foreclosed and bid in by Burke County for nonpayment of taxes, the undersigned hereby offer to purchase said property from the Burke County for the sum of _____ Dollars (\$_____) cash plus the signing of a Release releasing Burke County, its officers, employees, insurers, and assigns from any liability associated with the tax collection process, the sale of tax lien process, the foreclosure process, and the execution sale process associated with the below described property, both the cash and signing of the release being in consideration of the purchase of the property.

IT IS UNDERSTOOD AND AGREED that the Burke County must advertise the property for sale and that the quitclaim deed to the purchaser will convey only such interest, if any, as the Burke County may have in the property by virtue of unpaid taxes, and there will be no refund of the purchase price in the event of a failure of title. I have been apprised of those procedural irregularities documented in the attached Exhibit A, and understand that there may be other irregularities not yet discovered and agree to accept the property if I am the highest bidder. The Board of Commissioners has determined this real property to be surplus property subject to such irregularities, whether known or unknown.

I understand that the Board of Commissioners may reject this Offer to Purchase at any time, even after a proposed acceptance and advertisement for upset bids. Said property is located in: _____ was owned by:

(TOWNSHIP)

_____ at the time of its foreclosure, and is described as
(PREVIOUS OWNER)

_____ located at
(DESCRIPTION)

(ADDRESS)

(PARCEL IDENTIFICATION NUMBER)

In acceptance of this Offer to Purchase, I submit a deposit of _____ Dollars (\$_____), said bid deposit being one hundred percent (100%) of the minimum bid amount plus and municipal taxes due.

This the _____ day of _____, 20____.

(SIGNATURE)

(SIGNED COUNTY ATTORNEY)

(PRINT NAME)

(ADDRESS)

(CITY, STATE, ZIP)