

# Auction Procedures for Tax-Deeded Properties

A Guide for New Hampshire  
Municipal Staff



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SINCE 1982

# Introduction

Every year, New Hampshire municipalities acquire properties through the tax lien and deeding process. Once the redemption deadlines have passed, towns and cities may sell these tax-deeded properties to return them to productive use and recoup unpaid taxes.

This booklet provides a pre-auction, auction day and post-auction guide for municipal employees to follow when working with a licensed auctioneer to dispose of tax-deeded properties in compliance with applicable NH RSA's.



## Pre-Auction Tasks

### First Steps in the Tax Deed Process

The tax lien process is governed by [NH RSA 80:58<sup>1</sup>-91<sup>2</sup>](https://gc.nh.gov/rsa/html/V/80/80-58.htm) and sets forth the pre-requisite actions needed to bring a property to municipal auction. Before a property may be put up for auction, certain conditions must be met:

- **Tax lien:** A tax lien must be placed if taxes remain unpaid.
- **Tax deed issued:** After the redemption period expires, the property is then transferred to the municipality.
- **Authorization:** The governing body must be authorized by town warrant or special article to convey the property.
- **Disposition decision:** The governing body votes whether to keep or sell the property.

1 <https://gc.nh.gov/rsa/html/V/80/80-58.htm>

2 <https://gc.nh.gov/rsa/html/V/80/80-91.htm>

### WHAT YOU NEED

- A tax lien placed on the property
- A tax deed issued
- Confirm the legal description of the property
- Decide on minimum bid or reserve price, if desired
- Ensure that all staff are aware that properties are sold "as is, where is." Avoid making any promises regarding future use or condition of property

### PROVIDE THE AUCTIONEER WITH

- The applicable tax map
- Parcel ID
- Address
- Acreage
- Assessed value
- Zoning of each property

### WHAT JSJ PROVIDES

- Consultation on the pre-requisite conditions
- Referrals to specialized legal counsel, if needed

## Authorization and Disposition

Local laws and regulations will dictate specific details of the community's authorization process, but all communities in New Hampshire will include the following elements:

- The governing body (e.g., board of selectmen, aldermen, town council, mayor, or similar positions of authority in the community) must be authorized by town warrant or specific article.
- The authorization is good for one year, unless granted specifically for an indefinite period through warrant article or ordinance using the language “indefinitely until rescinded, or similar language.”
- Tax-deeded properties may be disposed of by means other than public auction or sealed bids, but “the governing body shall make an affirmation finding that disposal by a method other than sealed bid or public auction is in the public interest” ([NH RSA 80:80](#)<sup>3</sup>).

## Calculating Amount Due

There are several factors that determine the total amount due to a municipality when a property is to be sold at public auction. These factors include:

- All taxes assessed but unpaid as of the date of the tax deed, together with all taxes which would thereafter otherwise have been assessed against such property based on its valuation.
- All statutory interest accrued on all back taxes as of the date of the tax deed, together with all statutory interest which would otherwise thereafter have accrued on all taxes.
- All statutory fees charged for notice and recording.
- All legal costs and incidental consequential costs.
- A penalty equal in amount to 10% of the assessed value of the property as of the date of the tax deed, adjusted by the equalization ratio for the year of the assessment (subject to [NH RSA 80:89](#)<sup>4</sup>, II). The additional 10% penalty under [RSA 80:90](#)<sup>5</sup>, I, (f) shall not apply if the property was the principal residence of the former owner, or their principal residence at the time of execution of the deed.

**Important Note:** Pursuant to New Hampshire Supreme Court decision *Polonsky v. Town of Bedford*, 173 N.H. 226 (2020), as well as the United States Supreme Court decision *Tyler v. Hennepin County*, 598 U.S. 631 (2023), should there be excess proceeds from the sale of a property, the attorney shall distribute the excess proceeds to the former owner(s) or lienholders, as appropriate.

<sup>3</sup> <https://gc.nh.gov/rsa/html/V/80/80-80.htm>

<sup>4</sup> <https://gc.nh.gov/rsa/html/V/80/80-89.htm>

<sup>5</sup> <https://gc.nh.gov/rsa/html/V/80/80-90.htm>

## WHAT YOU NEED

- Legal authorization to convey the property
- A vote in favor of selling the property

## WHAT JSJ PROVIDES

- Assistance in determining the best method for disposal
- Referrals to specialized legal counsel, if needed

## WHAT YOU NEED

- A summary of outstanding taxes, fees and interest
- A summary of all legal and incidental costs related to the property

## WHAT JSJ PROVIDES

- Samples and examples, ensuring all applicable costs are recorded

# Pre-Auction Tasks

## 90-Day Letters

Once a property has been authorized for sale at public auction, the former property owners<sup>1</sup> must be notified before moving forward. These notices are known as 90-Day Letters, and they must be:

- Sent by the governing body or its designee.
- Sent at least 90 days prior to offering the property for sale.
- Sent by Certified Mail, Address Service Requested and Return Receipt Requested.
- Sent to the last known post office address of the property owner at the time of the tax deed, if known, or to the person to whom the notice of impending tax deed was given.
- Sent to the mortgage holders via Certified Mail with Return Receipt Requested.

## Elements of a 90-Day Letter

- Letters must be specific with the date, time, location of sale and the terms of purchase.
- They must inform the former owner of their right to repurchase the property either before or at the public auction, along with the terms with which to proceed with repurchasing. These terms must include:
  - Direction to provide notice to the city/town within 30 days of receipt and sent via Certified Mail with Return Receipt Requested.
  - A pre-written statement from the municipality's legal counsel stating that the former owner is "ready, willing, and able to pay all back taxes, interests, costs, and penalties" as defined in [NH RSA 80:90](#)<sup>2</sup>.

<sup>1</sup> 90-Day Letters are not required for former owners three years after the tax deed recording date. [NH RSA 80:89 \(https://gc.nh.gov/rsa/html/V/80/80-89.htm\)](https://gc.nh.gov/rsa/html/V/80/80-89.htm)

<sup>2</sup> <https://gc.nh.gov/rsa/html/V/80/80-90.htm>

## WHAT YOU NEED

- ❑ A formal notice providing information about the sale
- ❑ Clear terms of repurchase for the former owner

## WHAT JSJ PROVIDES

- ❑ Referral to legal counsel for drafting formal terms of repurchase, if needed



## Payment to the Municipality

Once 90-Day Letters have been issued, the former owner has the opportunity to repurchase the property in the allotted timeframe set forth in the legal notice sent to them. The former owner's ability to complete this in the time allotted determines what happens next and whether the municipality is able to move forward with putting the property up for auction.

### IF THE MUNICIPALITY IS PAID ON TIME

- The municipality will issue a deed for its interest property to "all record former owners in the same proportional undivided interest as the former owners of record."
- Any person that a former owner has "attempted to convey any interest, lien, or expectancy in the property subsequent to the date of the tax deed shall not be deemed a former owner."
- "Former owner includes any heir, successor, or assign of any former owner."
- If the property is the former owner's principal residence or was the former owner's principal residence at the time of execution of the tax deed, the additional penalty shall not apply (Reference [RSA 80:90](#)<sup>3</sup>).
  - The municipality should conduct due diligence into whether property is the former owner's principal residence.
  - It is up to the former owner to supply burden of proof with documented evidence of residency, such as car registration, driver's license, etc.

### IF THE MUNICIPALITY IS NOT PAID ON TIME

- If all back taxes, interest, costs and penalty have not been paid within 30 days of notice of intent to repurchase, the municipality may proceed with the sale ([NH RSA 80:89](#)<sup>4</sup>, [80:90](#)<sup>5</sup>).

3 <https://gc.nh.gov/rsa/html/V/80/80-90.htm>

4 <https://gc.nh.gov/rsa/html/V/80/80-89.htm>

5 <https://gc.nh.gov/rsa/html/V/80/80-90.htm>

### WHAT YOU NEED

- ❑ Clear documentation of any correspondence sent to or received from the former owner

### WHAT JSJ PROVIDES

- ❑ Procedural guidance when readying a property for auction in the event of non-payment
- ❑ Aggressive digital, direct-mail & print marketing campaign designed to maximize value



# Auction Day Tasks and Sample Schedule

Ensuring a successful auction day requires careful planning and coordination between the JSJ Auctions team and municipality staff assisting with the event.

## Sample Schedule

Multi-parcel sales are typically held on a Saturday morning at 10:00 am in a public building in the host town, while single-site sales can be held on a weekday afternoon on the premises of the subject property. Below is an example of a typical multi-parcel auction.

- **8:30 am - 9:00 am:** JSJ Auctions staff arrive to set up the auction venue. This includes placing signage on major roadways, setting up tables, chairs, sound equipment, a slideshow of the properties up for auction and refreshments.
- **9:00 am - 10:00 am:** JSJ Auctions staff begin the process of qualifying bidders for the auction and distributing information packets. Qualified bidders may ask questions of auction staff and town officials and a slideshow presentation detailing the subject properties begins and continues throughout the auction.
- **10:00 am - Start of Auction:** Auctioneer opens the sale by reviewing the terms and conditions, as well as answering any last-minute questions from bidders. The auction begins with the first property and continues until all properties are sold.
- **Close of Auction:** Deposits are returned to unsuccessful bidders and JSJ Auctions staff meet with successful bidders and town officials to execute the Purchase & Sales Agreements.

## PROVIDE THE AUCTIONEER WITH

- Access to auction venue 90 minutes prior to start of the auction
- Designate a town official to answer any relevant questions from registered bidders

## WHAT JSJ PROVIDES

- Bidder registration
- Collection of deposits
- Bidder packets
- Review of all terms and conditions
- Slideshow presentation to showcase the properties
- Voice recording of all sales

# Post-Auction Tasks

## After the Auction

Following the conclusion of an auction, there are several crucial steps that must be followed to facilitate the official transfer of ownership to the winning bidders. In the hours and days immediately following the auction:

- The auctioneer and municipal representative(s) meet with the high bidders to collect deposits and execute sale agreements.
- The auctioneer provides the successful bidder(s) with the contact information of the closing agent.
- The successful bidder(s) meet with the closing agent to pay balances and receive deeds for the property.

## Handling Unsold Property

In the event of property going unsold, there are additional options available:

- It may be re-auctioned on a later date.
- It may be disposed of through a negotiated sale with the approval of the governing body.
- It may be sold via sealed bid sale (if authorized).
- The municipality may retain it for future use.

## WHAT JSJ PROVIDES

- ❑ Clear and direct facilitation of the process among all parties
- ❑ Sale agreements for all properties, ready for signature

## PROVIDE THE AUCTIONEER WITH

- ❑ Authorized municipal official to execute purchase and sales agreements on behalf of the municipality



# Resources & Contacts

## Key Statutes

### Tax Sale Process

[NH RSA 80:18-80:57](#)

<https://gc.nh.gov/rsa/html/V/80/80-18.htm>

<https://gc.nh.gov/rsa/html/V/80/80-57.htm>

### Tax Lien Process

[NH RSA 80:58-80:91](#)

<https://gc.nh.gov/rsa/html/V/80/80-58.htm>

<https://gc.nh.gov/rsa/html/V/80/80-91.htm>

## Resources

### NH Municipal Association

[www.nhmunicipal.org](http://www.nhmunicipal.org)

### NH Secretary of State

[www.sos.nh.gov](http://www.sos.nh.gov)

## Auction Firm Contact's

### Jay St. Jean, CAI

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