

Town of Yarmouth

Disposition of Town Owned Real Property

Policy & Procedure

POLICY

Town-owned real property (buildings and land) serves a number of purposes including, but not limited to providing Town services, conservation, open space, recreation, well-head protection, or infrastructure purposes, and may have attached use restrictions which condition and/or limit the use to specific purposes. Recognizing that some Town-owned property may no longer be useful to the Town or may serve dual purposes, the Board of Selectmen have determined that it may be advantageous to the Town to dispose (sell or lease) Town property from time to time and hereby establish a policy to guide the disposition of Town-owned land via sale or lease.

This policy establishes an advisory Land Disposition Committee and provides guidance regarding the disposition of Town-owned land and establishes the procedure for the disposition of any parcel of Town-owned land so as to:

1. Provide a clear understanding and uniform method for reviewing land disposition requests;
2. Ensure that decisions involving land disposition are well considered and address the concerns and needs of all relevant Town Departments and Boards;
3. Provide a mechanism for public input in the decision process.

This policy applies to the following categories of Land Disposition:

1. Discretionary Dispositions:
 - Land disposition requests made by private individuals or other entities;
 - Land disposition recommendations initiated by the Town Departments or Town Boards/Committees;
2. Tax foreclosed property; and
3. Land of low value according to applicable Massachusetts General Laws (MGL).

The Town shall establish a Staff Committee for internal review of land disposition requests and a Land Disposition Committee that shall be responsible for making recommendations to the Board of Selectmen regarding land disposition requests.

Recommendations to the Board of Selectmen will be based on the following considerations and may include suggestions regarding preferred disposition method (sale, lease, easements) or restrictions:

- 1) Current and foreseeable Town-use of the property including active and passive uses including well-head protection, conservation, recreation, and affordable housing;
- 2) Maintenance obligations associated with parcel;
- 3) Estimated financial impact (if known) to the Town upon disposition or retention of property;
- 4) Anticipated impact of sale and proposed use of the property on the abutting land owners and surrounding neighborhood; and
- 5) Environmental impact of proposed or current use.

Proceeds from the disposition of Town-owned land shall be dispensed in accordance with MGL Chapter 44, Section 63.

Staff Committee Composition and Responsibilities

The Staff Committee shall consist of representatives of the Town Administrator's Office, the Community Development Department, the Department of Public Works, the Finance Department, and the Community Services Department. Other Departments shall be consulted as needed. The Staff Committee shall conduct an initial review of private requests and Town-generated proposals for disposition, identify the current Town use of the property and provide comments and additional information to the Land Disposition Committee including.

Land Disposition Committee Composition and Responsibilities

The Land Disposition Committee shall consist of seven (7) members including representative members from the following: the Planning Board, the Open Space Committee, the Recreation Commission, the Conservation Commission, the Affordable Housing Trust, and the Finance Committee. Additionally, one at-large member shall be appointed by the Board of Selectmen. The committee shall meet as necessary to review land disposition requests and to recommend its findings to the Board of Selectmen.

PROCEDURES

The procedure for each type of disposition is described below.

Discretionary Dispositions

1. Requests for the purchase of Town-owned real property shall be directed to the Town Administrator using the Real Property Request Form which may be amended from time to time.
2. The completed Real Property Request Form shall be forwarded to members of the staff committee for review and comment. Staff Comments will be consolidated and may include a recommendation whether to proceed with disposition.
3. Staff comments and the original Real Property Request Form will be forwarded to the Land Disposition Committee. Land Disposition Committee members may consult with their respective Boards as part of the review process.
4. The Land Disposition Committee shall meet at a duly posted public meeting to review the Staff Committee comments, deliberate, vote and to prepare their report and recommendation to the Board of Selectmen. Meetings will be held by the Land Disposition Committee that will afford the public the opportunity to comment on posted agenda items.
5. The Land Disposition Committee's recommendation shall be based on this policy as well as the following:
 - a. The original request/supporting documentation;
 - b. Staff Committee Report and Recommendations;
 - c. Board of Selectmen priorities;
 - d. Ongoing Town Planning efforts.
 - e. Other identified advantages and disadvantages of disposition;
6. The Land Disposition Committee shall forward their recommendation to the Town Administrator for consideration by the Board of Selectmen noting the recommended action and any proposed conditions.
7. The Selectmen will consider the requests and the Land Disposition Committee's recommendations. Subsequent to the Board's initial review, a public hearing with abutter notification shall be held for properties under continued consideration for disposition.
8. The Board of Selectmen will place any properties they approve for sale or lease on the Town Meeting warrant for consideration by the Town Meeting as required, provided that as permitted by law, tax title properties obtained through foreclosure may not require Town Meeting Approval.
9. The sale of property shall be governed under the property disposition process established by the Uniform

Procurement Act, Massachusetts General Law Chapter 30B (see below) including Town Meeting approval as required, provided that as permitted by law, tax title properties obtained through foreclosure may not require Town Meeting Approval.

Tax Foreclosures

The Town may from time to time consider the sale of property foreclosed upon by the Town for unpaid property taxes. This process is intended to:

- Generate revenue from the sale of property;
- Place Foreclosed Properties back onto Tax Rolls;
- Bring Foreclosure process to final closure.

The Procedure associated with Tax Foreclosures is as follows:

- 1) On an annual basis the Town Collector/Treasurer shall compile a listing of Town owned foreclosed property to the Land Disposition Committee.
- 2) The process may be expedited for properties that have structures likely to deteriorate or cause hazard. In this situation, properties will be offered to the Affordable Housing Trust for acquisition. Should the Trust decline, these properties will be auctioned as soon as possible to mitigate further deterioration or hazard.
- 3) The Land Disposition Committee shall consider each parcel according to the guidelines specified above in Section 5.
- 4) A listing of tax foreclosed property that will be recommended for sale should be sent to the Board of Selectmen.
- 5) Tax foreclosed property made available for sale by the Board of Selectmen may be disposed of by either MGL Chapter 30B (Uniform Procurement Act) or by Chapter 60 Section 77B (Public Auction). This process involves drafting a Request for Proposal (RFP) document that sets the conditions for the purchase of the property. This is a process defined by State law that ensures the sale is conducted as an open process including advertising the availability of the RFP. An evaluation is first conducted to ensure the qualitative items in the RFP are met. Once that is determine then the pricing information is evaluated.

Land-of Low Value

Once a property deemed to be Land of Low Value has been issued an Affidavit to Foreclose by the Commissioner of Revenue, the Town has four years to hold a public auction to dispose of the property. Land not sold at the initial public offering may be considered by the Town for disposal per the above described tax foreclosure process. The Affidavit to Foreclose must be filed at the Registry of Deeds. Sale of Land of Low Value parcels are governed under MGL Chapter 60 §§ 79, 80, 80A, 80B, and 80C.

AUTHORITY TO WAIVE

The ultimate decision regarding any land disposition rests with the Board of Selectmen. Accordingly, under special circumstances and at the direction of the Board of Selectmen, these policies may be waived.