ORDINANCE NO. 331

AN ORDINANCE ENACTING REAL PROPERTY TAX SALE PROCEDURES FOR THE "TAX SALE" AND ASSESSING ADMINISTRATIVE COSTS TO DELINQUENT PROPERTIES

WHEREAS, Section 59-2-1351.1(2) (b) of the Utah Code states that "the county legislative body, upon recommendation by the county auditor, shall 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 due"; and

WHEREAS, Thomas H. Bennett, the Box Elder County Auditor, has recommended that the procedures set forth in this ordinance will best protect the financial interest of delinquent property owners and will meet the needs of Box Elder County to collect delinquent property taxes; and

WHEREAS, after having reviewed the recommendations of Thomas H. Bennett, the Box Elder County Auditor, the Box Elder County Commission has found and determined that the procedures set forth in this ordinance will best protect the financial interest of delinquent property owners and will meet the needs of Box Elder County to collect delinquent property taxes; and

WHEREAS, the Box Elder County Commission has further found and determined the procedures set forth in this ordinance are in the best interests of and will promote the general health, safety and welfare of the residents of Box Elder County;

NOW THEREFORE, the Box Elder County Commission, acting as the legislative body of Box Elder County, ordains as follows:

SECTION 1: ADOPTION OF TAX SALE PROCEDURES. The following procedures are hereby adopted by Box Elder County for use in the conduct of its sale of delinquent properties to collect delinquent property taxes:

1.0 Fees

1.1 An administrative fee of $75 will be assessed for each delinquent parcel that goes to the Tax Sale. In addition, any parcel for which independent title work has been performed will have the cost of the title work added as an additional administrative cost. These administrative fees shall be added to the taxes, penalties and interest outstanding on each delinquent property.

2.0 Bidding

2.1 Before being allowed to participate in the bidding process, each person desiring to bid shall register with the Box Elder County Auditor's Office the morning of the Tax Sale by filling out a Bidder Registration form. Upon receipt of the Bidder Registration form, the Box Elder County Auditor (Auditor) will issue each bidder a Bidder Number. No individual shall be allowed to bid without a bidder number.

2.2 The 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, the Auditor shall call out the next acceptable bid amount. Bidders will accept the Auditor's proposed bid amount by raising their number to bid on the parcel. Bidders will not be allowed to call out their own bid amounts or to bid on parcels for any amount other than the amount currently being presented by the Auditor. Bidders not willing to abide by this process will be asked to leave the auction and will not be allowed to bid on any other parcels.

2.3 The Auditor shall only recognize bidders by their bidder number. The bidder number first recognized by the Auditor shall be the first bid recorded. The bid recognized is the one in effect at the time.

2.4 The final bidder number announced by the Auditor shall be the official buyer. The Auditor will use the information provided on the Bidder Registration form in preparing the Tax Deed.

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 that is in excess of the taxes, interest, penalties and administrative costs of the delinquent property shall be treated as unclaimed property and paid to the State Treasurer.

2.6 All final bids are considered conditional, whether or not the bid is contested, until the Box Elder County Board of County Commissioners, acting at a regularly scheduled meeting, formally accepts the bids.

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 Auditor reserves the right to reject any bid that the Auditor deems to be a product of collusion.

2.8 The successful bidder of a property may not unilaterally rescind the bid once the 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.

2.9 The commission may find that none of the bids are acceptable.

3.0 Redemption Procedures

3.1 Delinquent property certified for Tax Sale may be redeemed on the behalf of the record owner by any person at any time prior to the Tax Sale. All property redeemed within three (3) weeks prior to the Tax Sale must be paid by cash or certified funds to the County Treasurer.

3.2 A person redeeming the delinquent property must pay the Treasurer all delinquent taxes, interest, and penalties. The additional fees mentioned in Section 1.1 need not be paid if the property is redeemed before going to sale.

4.0 Payment Methods and Procedures

4.1 The successful bidder shall pay the Treasurer in cash or bank certified funds by 5pm on the day of the sale.

4.2 The Treasurer will not accept payment without the signed Box Elder County Tax Sale Property Purchase Slip.

5.0 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 Auditor, who shall then declare as follows: "All property here offered for sale which has not been sold to a private purchaser is hereby struck off and sold to the county of Box Elder, and I hereby declare the fee simple title of the property to be vested in the county."

6.0 Properties Withdrawn from the Sale for Reasons Other than Redemption

6.1 The Auditor may withdraw any property from the Tax Sale for 1) having a title deficiency, 2) having a deficient description, 3) having any other similar deficiency, 4) having been illegally subdivided, or 5) having such circumstances that it has been determined it is in the best interest of the public, property owner, and the county that it should be withdrawn.

6.2 The Auditor may re-certify to a subsequent sale any withdrawn property if the cause of the original withdrawal has been remedied or deemed no longer applicable.

7.0 Contesting Bids and Sales

Any person wishing to contest any action taken in conjunction with the Tax Sale must submit a written protest to the Box Elder county 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.

8.0 Sale Ratification Procedures

All accepted bids will be submitted to the County Commission for ratification fifteen (15) days from the date of sale.

9.0 Procedures for Recording Tax Deeds

9.1 Upon full payment of the taxes, penalties, interest and all administrative costs, the Treasurer will issue a receipt. Within sixty (60) days of the date of the Tax Sale and after ratification by the Commission, the Auditor will execute deeds conveying in fee simple to the purchaser.

9.2 When the deed is executed and delivered by the Auditor, it shall prima facie evidence of the regularity if all proceedings subsequent to the date the taxes initially became delinquent and of the conveyance of the property to the grantee in fee simple.

9.3 The deed issued by the Auditor shall be recorded by the County Recorder.

9.4 The Auditor will use the information provided on the Bidder Registration form in preparing the Tax Deed.

10.0 Disclaimer on Property Sold

10.1 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.

10.2 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 applicable zoning regulations.

10.3 The County makes no warranties or representations that any property purchased during the Tax Sale is habitable or in any particular condition.

10.4 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.

SECTION 2: EFFECTIVE DATE. This ordinance shall become effective fifteen (15) days after its adoption and publication as required by law.

PASSED, ADOPTED AND A SYNOPSIS ORDERED PUBLISHED this 23rd day of March, 2009

Commissioner VanDyke voting aye
Commissioner Hardy voting aye
Commissioner Shaffer voting aye

Richard VanDyke, Chairman
Box Elder County Commission

ATTEST:

Diane Fuhriman Deputy

LuAnn Adams, Recorder/Clerk
Box Elder County