

**SAN JUAN COUNTY ORDINANCE NO: 2022-04**

**AN ORDINANCE ESTABLISHING THE METHOD, RULES, AND PROCEDURES FOR CONDUCTING THE ANNUAL TAX SALE AND ALLOCATING ADMINISTRATIVE COSTS TO DELINQUENT PROPERTY IN SAN JUAN COUNTY AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.**

**WHEREAS**, Utah Code Ann. §59-2-1351.1, authorizes the Board of County Commissioners to establish procedures, by ordinance, for the sale of properties which have delinquent property taxes due, in a manner which best protects the financial interests of the delinquent property owner and meets the needs of the County to collect delinquent property taxes due; and,

**WHEREAS**, the following “Method of Sale” and “Tax Sale Rules,” facilitate those requirements; and,

**WHEREAS**, the Tax Sale creates costs of administration including advertising, recording, noticing, offering, mailing, etc.

**NOW THEREFORE**, the Board of County Commissioners of San Juan County ordains as follows:

**SECTION 1: DEFINITIONS**

- A. As used in the ordinance
1. “Administrative cost” means expenses incurred by the County in preparation of the tax sale.
  2. “Bid” means an offer of a purchase price for a property.
  3. “Bidder” means a natural person, corporation, or licensed business entity.
  4. “Collusive bidding” means any agreement or understanding reached by two or more parties that in any way alters the bids the parties would otherwise offer absent the agreement or understanding.
  5. “County” means San Juan County, a political subdivision of the State of Utah.
  6. “Public employee” means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by the County.
  7. “Public officer” means all elected or appointed officers of the County who occupy policy making posts.
  8. “Substantial interest” means the ownership, either legally or equitably, by an individual, the individual’s spouse, or the individual’s minor child, of at least 10% of the outstanding capital stock of a corporation or 10% interest in any other business entity, including a trust.
  9. “Tax sale” means the sale of properties with delinquent property tax due as authorized by Utah Code Ann. §59-2-1351 *et seq.*

**SECTION 2: PUBLIC NOTICE**

Notice is hereby given that unless noticed otherwise, the annual San Juan County Tax Sale shall be held every year in May. The auction will be conducted on site at 117 South Main Street in Monticello, Utah at the County Administration Building. Advertising and auctions may be presented live using [publicsurplus.com](http://publicsurplus.com) as needed and appropriate. At such time, the County will offer for sale at public auction and sell to the highest Bidder pursuant to Utah Code §59-2-1351 *et seq.*, the real property as listed

by the County Treasurer on the Tax Sale Listing pursuant to Utah Code §59-2-1343 and described herein located in San Juan County and delinquent and subject to Tax sale.

Notice of an alternative date of sale shall be given in the form pursuant to Utah Code Ann. §59-2-1351. Such tax sale shall proceed pursuant to Utah Code §59-2-1351 and this Ordinance.

### **SECTION 3: BIDDER REGISTRATION REQUIREMENT**

Each Bidder must register in the manner required by the County or entity conducting the Tax Sale on behalf of the County. Any such requirement will be posted on the County website. If an auction company or using publicsurplus.com, the name of the company or means of auction will be indicated on the County website. Any registration requirement must be completed by the date and time indicated.

In the registration, the Bidder shall properly and clearly identify the correct information and address for use in issuance of deeds. At the time of registration, the Bidder shall also disclose any substantial interest as required in Section 6.

Neither the County nor an auction company can or will be held responsible for late or misdirected bid deposits, proxy bids, or any other transmission, mailing, email, or other correspondence necessary to participate in the bid.

### **SECTION 4: REDEMPTION RIGHTS AND PROCEDURES**

A property may be redeemed in behalf of the record owner, by any person, at any time prior 5:00 p.m. of the business day prior to the start time of the Tax Sale. Property is redeemed by paying to the County Treasurer, all delinquent taxes, interest, penalties, and administrative costs which have accrued on the property. Paying the delinquent amount does not grant ownership to the party(s) paying all delinquent taxes, interest, penalties, and administrative costs. Redemption only removes the property from the Tax Sale.

### **SECTION 5: PROHIBITED CONDUCT**

Collusive bidding is not permitted and is punishable as a Class C Misdemeanor. Collusive bidding further means to conspire with another party to intentionally rig bids or fix prices to make it difficult or impossible for any other parties to take part in the bidding process. Any Bid that was accepted from a Bidder discovered to have engaged in Collusive Bidding is void and any property acquired through Collusive Bidding is stricken, without cost, to the County as if a minimum Bid had not been made consistent with Section 11.

### **SECTION 6: CONFLICT OF INTEREST PROHIBITIONS AND DISCLOSURE REQUIREMENTS**

Every County official or employee who purchases or has a substantial interest in any business entity which purchases property at the Tax Sale must disclose said interest in a sworn statement filed with the County Clerk and a copy of which is provided to the Board of County Commissioners, the County Attorney, and the employee's or official's immediate supervisor. These disclosures are public information and are available for public inspection.

Notwithstanding any disclosure, no official or employee may have a personal investment in a business entity which will create a substantial conflict between private interests and public duties related to the Tax Sale.

#### **SECTION 7: CRITERIA FOR ACCEPTING OR REJECTING BIDS**

Bidding will advance in increments of a minimum of \$100 or as indicated on each property listed for sale with the minimum acceptable bid starting at "Taxes."

All Bids shall be considered conditional, whether or not the bid is contested, until reviewed and accepted by the Board of County Commissioners acting at a regularly scheduled Commission meeting.

The County reserves the right to reject any and/or all bids.

All Bidders have an equal opportunity to offer a bid on properties. There is no preferential Bidding. Bidders who make a bona fide Bid in the highest amount for a property become the successful Bidder of the property auction.

#### **SECTION 8: SALE RATIFICATION PROCEDURES**

The County Auditor, or assigned deputy, shall present the results of the Tax Sale no later than two regularly scheduled Board of County Commission meetings after the sale. The County Auditor, or assigned deputy, will inform the commission regarding the number of properties sold, the number of properties struck off to the County, and the high Bid amount for each property offered for sale at the Tax Sale.

The County Commission may ratify the results of the Tax Sale after hearing the details offered by the County Auditor or assigned deputy.

#### **SECTION 9: METHOD AND PROCEDURE OF PAYMENT, FEES, AND PREMIUMS**

All Bids are an irrevocable offer to purchase the property in question. A Bidder is legally and financially responsible for all properties bid upon. Payment in full by either Money Order, Credit Card or Wire Transfer will be required no later than three (3) business days after the Tax Sale closes, unless otherwise advertised. No personal checks and no financing is available. Other methods of payment may be accepted if an auction company is used and the company provides alternative payment methods.

There is a Recording Fee and Administrative Costs per transaction which will be required to be paid in addition to the winning Bid to be paid by the winning Bidder at the time of payment.

#### **SECTION 10: PROCEDURES FOR CONTESTING BIDS AND SALES**

Any person wishing to contest any action taken in connection with the Tax Sale must present such protest to the Board of County Commissioners, by filing a written notice of contest through the County Clerk's Office within ten (10) calendar days of the date of the Tax Sale.

## **SECTION 11: CRITERIA FOR STRIKING PROPERTIES TO THE COUNTY**

Any property which does not receive a minimum Bid shall be struck off to the County. Property struck off to the County may be available for sale through the County Clerk's Office when approved by the Board of County Commissioners.

Upon any final bid being rejected, the property may be offered to a Bidder who offered the second highest Bid in the amount of that Bid. If the second highest Bidder does not accept and make payment on the offer within 30 days of the offer, the property shall be struck off to the County.

## **SECTION 12: PROCEDURES FOR DISCLOSING PROPERTIES WITHDRAWN FROM THE SALE**

The County website will be updated daily with any changes in the available properties. If the list is published in a local newspaper, it will be updated with any changes prior to its publication each week.

If advertising and auction is taking place on a auction website, that website will be updated daily with any changes in the available properties.

Any properties which are redeemed or removed immediately prior to the beginning of the Tax Sale auction, will be removed from live bidding prior to the bid group.

## **SECTION 13: DISCLAIMER BY COUNTY WITH RESPECT TO TAX SALE**

Properties sold via Tax Sale shall be conveyed by Auditor's Tax Deed. This form of deed is not a warranty deed. No warranty or guarantee is made, expressed, or implied, relative to the title, location, or condition of properties for sale. In addition, the County assumes no responsibility, implied or otherwise, that tax sale properties are in compliance with zoning ordinances, mining and reclamation regulations, building codes or permits, and/or any other applicable regulations or permits. In addition, the County makes no warranties or representations as to whether the property is buildable or developable.

Any property sold pursuant to a Tax Sale is without guarantee or warranty whatsoever as to existence, correctness of ownership, size, boundaries, location, structures or lack of structures upon the land, liens, titles, or any other matter or thing whatsoever. The County does not warrant or represent that any property purchased during a Tax Sale is habitable or in any particular condition.

The County also makes no warranties or representations regarding the accuracy of the assessment of the property or accuracy of the legal description of the real estate or improvements thereon. It is the responsibility of the Bidder to determine the physical aspects of the property, its geographical location, and accessibility. The County makes no warranties regarding the availability, validity, or existence of water rights associated with any of the properties sold during a Tax Sale.

It is the Bidder's responsibility to determine the liabilities, including other liens and encumbrances, that exist on each property before and after the sale. The properties are sold "as is." Additionally, the County is not liable in any way whatsoever for damages sustained to property purchased from the time of sale until the recording of the Auditor's Tax Deed to a purchaser.

All properties sold at a Tax Sale fall under the rule of *caveat emptor*, or “let the buyer beware”, and all purchasers are hereby so notified.

**SECTION 14: SEVERABILITY**

Should any portion of this ordinance be found for any reason to be unenforceable, unlawful, or void, the balance of the ordinance shall be severable therefrom, and shall survive such declaration, remaining in full force and effect.

**SECTION 15: REPEAL OF CONFLICTING ORDINANCES**

To the extent that any ordinance, resolutions, or policies of the County conflicts with the provisions of this ordinance, they are hereby amended to comply with the provisions thereof.

**SECTION 16: EFFECTIVE DATE**

This Ordinance shall become effective immediately after the requirements of Utah Code §17-53-208 have been met.

PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San Juan County in an open meeting this 6<sup>th</sup> day of September, 2022.

Voting Aye: Willie Grayeyes, Bruce Adams Voting Nay: \_\_\_\_\_

ATTEST:

SAN JUAN COUNTY BOARD  
OF COMMISSIONERS

 9/6/22  
Lyman Duncan, Clerk/Auditor

  
Willie Grayeyes, Chair