

ARTICLE 10
Create a Natick Town Bylaw to provide for Tax Payment Agreements pursuant to
M.G.L c.60 section 62A
(Town Administrator)

ARTICLE LANGUAGE

To see if the Town will vote to create a Town of Natick by-law to authorize, pursuant to M.G.L. c.60 section 62A, payment agreements between the Treasurer and persons entitled to redeem parcels in tax title and waive certain interest payments as specified in said bylaw or otherwise act thereon.

PURPOSE OF THE ARTICLE

To accept the provisions of M.G.L c. 60 Section 62A which allows a Town to create a by-law providing for payment agreements between the treasurer and person(s) entitled to redeem parcels in tax title.

FINANCE COMMITTEE RECOMMENDATION

The Finance Committee took the following action:	RECOMMENDATION:	Favorable Action
	QUANTUM OF VOTE:	14-0-0
	DATE VOTED:	September 21, 2021

MOTION (Requires a Majority Vote)

Move that the Town vote to accept the provisions of Massachusetts General Law Chapter 60, Section 62A, to provide payment agreements between the treasurer and persons entitled to redeem parcels in tax title and enact the following by-law, Article 43A, as follows:

“Article 43A

Tax Title Pay Agreements

Section 1

In accordance with MGL c.60 section 62A, this bylaw authorizes payment agreements between the treasurer/collector and persons entitled to redeem parcels in tax title and the waiver of certain interest charges, as provided for in Section 2.

Section 2

The Treasurer/Collector of the Town may enter into in an agreement with the person or persons entitled to redeem parcels in tax title for payment of taxes and interest, subject to the following conditions:

- a. Such agreements shall be for a term of up to 5 years and waive not more than 50 per cent of the interest that has accrued on the amount of the tax title account for all persons entitled to redeem parcels in tax title.
- b. No tax principal or collection costs/fees may be waived in any agreement.
- c. The Treasurer shall create a schedule of payments, including interest, for all agreements.
- d. Agreements and waivers under this section shall be uniformly applied for all classes of tax titles.
- e. All agreements shall require a minimum payment at the inception of the agreement of 25 per cent of the amount needed to redeem the parcel.

Section 3

During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other amounts due to the municipality that are a lien on the same parcel. In the event of any default in payment obligations stipulated in said agreement, the Treasurer may pursue any or all remedies prescribed by MGL c. 60 for the collection of unpaid taxes, including, but not limited to, tax title foreclosure.

Section 4

Nothing in this bylaw shall preempt or preclude the authority of the treasurer/collection to accept partial payments or to negotiate and enter into payment agreements authorized by any other statutory authority.”

FINANCE COMMITTEE PUBLIC HEARING AND DISCUSSION

Presenter: Mr. John Townsend, Deputy Town Administrator/Finance Director

At the September 2 meeting, Mr. Jamie Errickson, Town Administrator, said he has not heard back from Town Counsel on her review of this Article and suggested that Mr. Townsend provide a quick overview to inform the Committee of the intent of the article.

Mr. Townsend said acceptance of MGL c. 60 § 62A is for payment agreements for people who are in tax title. This Article requires the actual creation of a bylaw (not acceptance of a state bylaw) and that's why we need to hear the edits Town Counsel has. He noted that there are several reasons people go into tax title, the most obvious is non-payment of real estate taxes, and then the Town can go to court and proceed to foreclose their property. Another type of tax title is utility bills where if you don't pay your water bill, your property is put into tax title and a lien attached to your property. If necessary, the town can foreclose on your property to pay the outstanding utility bills.

This Article would enable the Town Treasurer to enter into a payment plan with someone who is going into tax title. This person has the right to redeem their property (remove it from tax title status) by paying the outstanding bills and interest. Thus, it doesn't apply to a bank that would hold a mortgage on a property, but to the property owner to reach an agreement on an installment plan to pay the outstanding balance in tax title.

Mr. Townsend said one reason they're doing this is that, during COVID, they had many questions from people wanting to develop tax payment plans. Unfortunately, at present, the Treasurer doesn't have the flexibility to do this. This bylaw would allow the Treasurer not only to enter into a payment plan for the actual payment of taxes, but also to waive a certain amount of interest, which is very beneficial to people who are in tax title. Some of the provisions are a maximum of five years, with at least 25% as a down payment. The language in the bylaw closely tracks the language in the statute and will provide another tool in the Treasurer's toolkit to help people who are in arrears on their taxes or utility bills.

Further, this is a good time to pass this because in November, the town will update its tax title software and they will be trying to clean up a lot of the old cases. Many tax title cases date back quite some time with a couple that go back to the 1960s. Some of these cases are small pieces of property where the town no longer has the ability to find out who owns them, and it will cost more to do a title search than the property is worth, so the town will work with its attorneys to clean up these cases before we put them into our new system.

At the September 21 meeting, Mr. Townsend noted that during the earlier discussion with the Finance Committee, two issues were identified. First, the Article had not received Town Counsel review. It has now received Town Counsel's review and she made some modifications to the formatting of the Article and added a section four that reserves our rights. It has the same substance as the previous version but reads a little better than it did previously. Second, it didn't have a reference to a bylaw Article number and that has also been corrected – it is now proposed as Article 43A of the Natick Town Bylaws. In summary, this is the acceptance of MGL c. 60, § 62A which allows towns to create a payment plan for individuals who are in tax title. It allows the Town Treasurer to enter into an agreement for up to five years and to waive 50% of the interest and other provisions and put together a payment plan. An

individual then has to make those payments in order to avoid tax title. Mr. Townsend noted that the town doesn't expect to use this very often, but as you may recall during our discussions of COVID impact on taxpayers, the issue of being unable to pay property taxes may increase. This bylaw would provide the Treasurer with another tool in their toolkit to help residents who may need assistance to help them avoid tax title. It also helps the town avoid potential litigation fees to pursue tax title.

QUESTIONS FROM THE COMMITTEE

A member asked whether requests are reviewed individually and what the standards for approval are. Mr. Townsend said each request is reviewed individually. There's a provision in the law that all classes of tax title would have to be treated the same. So if you had a tax title and it was due to outstanding utility bill payments, all people who have that particular issue would have to be offered these same provisions of a settlement agreement.

A member requested confirmation that this sets precedent going forward in future tax years, not just for that individual tax year. Mr. Townsend confirmed this.

A member asked whether towns comparable to Natick have adopted this. Mr. Townsend did not know, but Town Counsel mentioned that this provision is fairly commonly used in municipalities, as it has been around since 2006.

A member noted that the questionnaire stated that failure to pass Article 10 could result in more tax title cases and there would be a delay of revenue because the tax title process would take longer. The member asked whether there was any downside to passing Article 10. Mr. Townsend said because the Town doesn't have the provision now, it's unclear how many people will request this, but it probably will be a small number. It is also beneficial to the residents who can avoid tax title and would expedite them getting out of tax title status. For any individual case, this could provide a speedier resolution.

A member asked how many tax title cases are there in town. Mr. Townsend said the town currently has 230 cases in tax title.

A member observed that this provides good flexibility and encourages dialogue and resolution among parties that might have divergent interests - including the town and property owners. However he noted that he is wary that this could have unforeseen consequences and asked if town administration could present a summary of how this is working to town meeting.

Another member was concerned about requiring 25% upfront, and thought that could be a real barrier to people who are already struggling. She will be interested in finding out if the number of properties in tax title goes down and noted that we wouldn't want to cause people to lose their properties through unintended consequences.

~~ END OF ARTICLE ~~