

The Corporation of the City of Stratford Policy Manual

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Policy Section: Financial and Fiscal

Department: Corporate Services

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Property Tax Billing and Collection Policy

Policy Statement:

The City of Stratford collects taxation levies on behalf of the Municipality and school boards and is responsible to ensure that all taxation revenues are collected. The Municipality wishes to ensure prompt billing of the taxation levy in order to meet the budgetary expenditures of the Municipality and also to ensure that collection policies are appropriate within the requirements of all applicable legislation.

Purpose:

The billing and collection of municipal taxation levies on a timely basis is an important tool to support the efficient cash management of the Municipality. The purpose of this policy is to provide guidelines for staff and to complete billing and collection in a consistent, fair, and transparent manner. The procedure will serve as a reference for Council and staff when answering concerns of ratepayers. It is designed to be implemented in accordance with all governing legislation. Should there be any contradictions between this Policy and the governing legislation, the provisions in the legislation will prevail.

Definitions:

"Cancellation Price" means an amount owing equal to all Tax Arrears, together with all current taxes owing, penalties and interest and costs incurred by the Municipality after the registration of a Tax Arrears Certificate under Section 373 of the Municipal Act.

"Collection Costs" means all costs incurred by the Municipality to obtain information for collection purposes and/or collect Tax Arrears including, but not limited to, title search fees, corporate search fees, registered or certified mail, administrative charges, legal costs, and tax sale costs.

"Council" means the municipal Council of the City of Stratford.

"Extension Agreement" means a contract between the Municipality and the owner, spouse of the owner, a mortgagee, or a tenant in occupation to extend the period of time in which the Cancellation Price is to be paid. The contract is entered into after the registration of a Tax Arrears Certificate and before the expiry of the one-year period following the registration date.

"MPAC" means the Municipal Property Assessment Corporation which is responsible for determining the assessed value of all classes of assessment in the Province of Ontario. MPAC administers all phases of property assessment including appeals of assessment.

"Municipality" means the Corporation of the City of Stratford.

"Notice of Vesting" means a notice required by clause 379 (5) (b) and subsection 379 (6) of the Municipal Act which contains the information prescribed in Schedule 4 of O. Reg. 181/03 whereby the Municipality takes the ownership and the official rights of the title on a property.

"Penalty and Interest" means amounts applied by the Municipality to unpaid Property Tax accounts, in accordance with Section 345 of the Municipal Act and applicable Municipality by-laws. Penalty refers to amounts added to overdue current amounts owing. Interest refers to amounts added to previous period arrears.

"Property Taxes" means the total amount of taxes for municipal and school board purposes levied on a property and includes other amounts as may be added to the tax roll under applicable Provincial legislation.

"School Boards" means collectively all school boards in which the Municipality distributes taxation levy funds.

"Tax Arrears" means any portion of Property Taxes that remain unpaid after the date on which the taxes are due.

“Tax Arrears Certificate” means a document that is registered on title, indicating the described property will be sold by public sale if all Property Taxes are not paid to the Municipality within one year of the registration of the certificate.

“Tax Sale” means the sale of land for Tax Arrears according to the proceedings prescribed under the Municipal Act and O. Reg 181/03.

“Treasurer” means the Director of Corporate Services of the City of Stratford or Designate.

Scope:

This policy covers all aspects of billing and collection of Property Taxes, up to and including the initiation of Tax Sale proceedings. All procedures related to a Municipal Tax Sale are carried out in accordance with Ontario Regulation 181/03. This policy excludes the collection of payments-in-lieu of taxes and other accounts receivables.

Procedure:

Billing, Payments and Delivery of Tax Bills

The authority to levy taxes is provided in Sections 311 and 312 of the Municipal Act. These sections state that Council shall, each year, pass a by-law levying a separate tax rate on the assessment in each property class in the municipality for the purpose of satisfying the financial obligations arising from the annual budget process.

A levying by-law passed by Council is required in advance of the Interim and/or Final Tax billing. A separate levying by-law is not required for supplementary tax billings.

Annual property taxes are billed in four installments, two included in the interim billing and two included in the final billing.

Tax bills will be prepared in a format that complies with legislated requirements under Ontario Regulation 75/01 of the Municipal Act.

Any outstanding arrears will be included in each tax billing’s first installment due date amount. Installment due dates will be indicated on the payment stubs attached to the main tax bill.

The cents amount of the total bill will be collected in full on the first installment of each tax billing.

Billing – Interim

As provided in the Municipal Act each property owner, identified on the returned assessment roll, shall be mailed an interim tax bill. The interim bill shall represent up to fifty percent (50%) of the previous year's annualized taxes and may include up to fifty percent (50%) of the Downtown Stratford Business Improvement Area charge or other special charges as required under provincial legislation and be payable in two instalments. This interim bill shall be mailed at least 21 days prior to the due date of the first instalment. The two instalment due dates will be the third last business day of February and April.

Participants in the pre-authorized payment program will receive a notice in the preceding December advising of what their monthly payment withdrawal from their bank account will be for the period January – June. Interim tax bills will still be mailed to these participants.

Billing – Final

After completion of the annual budget process, and the setting of tax ratios and rates, a final bill shall be mailed to each property owner identified on the returned assessment roll, as amended by MPAC throughout the year. The final tax bill shall be the levied taxes for the year less the amount previously issued via the interim bill and be payable in two instalments. This final bill shall be mailed at least 21 days prior to the due date of the first instalment. The two due dates will be the third last business day of August and October.

Any applicable Business Improvement Area (City Centre) levy charges and other special charges will be included in the Final billing. The Business Improvement Area is generally funded by a special levy applied to properties with commercial and industrial assessment within the boundaries of the designated BIA area and is based on the assessed value of the property.

Supplementary and Omitted Assessments

Omitted Assessment - Section 33 of the Assessment Act allows for the taxation of real property that was eligible for taxation but was previously omitted from the roll. The provision allows for the taxation in the current year, plus a maximum of the two preceding years.

Supplementary Assessment – Section 34 of the Assessment Act allows for the taxation of assessment increases arising from changes to property values (triggered by building construction/renovation), classification, or tax-exempt status. These taxes apply to the current year only.

After receiving notification from MPAC, tax bills shall be issued to each property owner identified on the supplementary/omitted assessment notification listing. The Municipality will determine instalment due dates, which are usually separate and different from the regular annual tax bill.

Penalties and interest charges will be assessed on supplemental taxes that are owing past their due date. See Late Payments Charges/Penalties and Interest section.

Participants in the monthly pre-authorized payment program will receive a notice advising that the supplementary bill amount is payable over and above their current monthly payment plan. Property owners may contact the Municipality in writing to amend their pre-authorized amount to include this billing prior to the end of the calendar year. When a supplementary bill is issued closer to the end of the year there may not be sufficient time to accommodate a monthly payment plan, in which case the instalment due dates apply.

Severances

Property owners may apply for severances of their properties under the authority of the Planning Act. If granted by the governing body with the legislative authority, the assessment values must be split between all of the parcels of land. MPAC divides the assessment information and provides the resulting apportionment information to the Municipality. Processing of assessment and tax changes as a result of severances is performed once information is received from MPAC. Tax bills shall be issued to each property owner identified on the severance/consolidation plan information form.

Consolidations

The Planning Act stipulates that abutting lands with common ownership automatically become one parcel unless the lands have been subjects of a Land Division Committee of Adjustment consent or are whole lots/blocks in a registered plan of subdivision. Complying with the Planning Act is an operation of law. The request or consent of the owner is not required.

Consolidations are processed by MPAC and Property owners should contact MPAC directly with questions related to consolidations.

Rebates and Other Adjustments

The Municipality periodically receives notifications of changes in assessment or tax classes from MPAC. Some of the types of assessment applications and notifications that may affect the assessment value on a property which may result in a reduction in taxes are:

- Applications For Reduction in Assessment - under Section 357 & 358 of the Municipal Act
- Request for Reconsideration (RfR) – under Section 39.1 of the Assessment Act
- Assessment Review Board (ARB) Decision – under Assessment Act
- Minutes of Settlement (MOS) – under Section 40 of the Assessment Act
- Post Roll Assessment Notice (PRAN) – under the Assessment Act
- Advisory Notice of Adjustment (ANA) – under of the Assessment Act
- Charity Rebates – under section 361 of the Municipal Act

Applications for Reductions in Assessment Value (Section 357 and 358)
(see Appendix A)

Under Section 357 and 358 of the Municipal Act, applications may be made to the Municipality for reduction in assessment for the following reasons:

- a) Building was razed by fire
- b) Building was demolished
- c) Ceases to be liable for the tax rate that the property had been originally taxed
- d) Became exempt from property taxation
- e) Is damaged and substantially unusable
- f) Mobile unit is removed
- g) Experiences a gross or manifest clerical/factual error
- h) Is under repairs/renovations preventing normal use (minimum 3 months)

The Municipal Act requires that the following procedure occur:

- 1) An application must be completed and submitted on the prescribed form which is available from the Municipality's website at www.stratford.ca or at City Hall located at 1 Wellington Street
- 2) An application must be filed with the Treasurer or Manager of Revenue and Taxation on or before February 28th of the following year in respect of which the application is being made
- 3) Complete applications are reviewed by the Treasurer or Manager of Revenue and Taxation and are sent to MPAC for their recommendation of assessment value and/or tax class change
- 4) If MPAC revises the assessed value, the Municipality will recalculate the taxes for the affected year(s), and issue a supplementary credit adjustment. The applicant then has thirty-five (35) days to appeal to the Assessment Review Board (ARB) if they do not agree with the decision
- 5) Annually, the Treasurer or Manager of Revenue and Taxation will prepare a report of all tax application changes for Council's information. This report will include the following details for each property:

- roll number,
- reason for the reduction or exemption,
- the section of the Municipal Act (if applicable),
- the tax year to which the tax reduction will apply,
- the amount of reduction in assessment, and
- the impact to the Municipality's financial statements.

Request for Reconsideration (RFR)

If a property owner does not agree with the assessed value of their property or feels that the property classification is not correct, they may file a Request for Reconsideration (RFR) with MPAC by March 31st of the current taxation year. It is the responsibility of the property owner to provide any supporting documentation to MPAC for their consideration.

After due investigation, MPAC will issue their decision. Both the property owner and the Municipality have the option to either accept the decision of MPAC or appeal to the ARB with ninety (90) days of being notified of the RFR Notice of Decision. The Treasurer may determine whether or not to appeal and may utilize services of assessment consultants. Variables affecting whether to consult with specialists including magnitude of adjustment and other factors may influence this decision.

Assessment Review Board (ARB) Applications

Property owners may apply to the ARB to appeal their assessment. The deadline for these types of appeals is March 31st of the current taxation year.

If the subject property, or a portion of it, is classified as residential, farm or managed forests, the property owner must first file an RFR with MPAC before they are eligible to file an appeal with the ARB. Other property tax classes may appeal the assessment to the ARB directly.

Forms, fees and deadlines are available on the ARB website at www.arb.gov.on.ca

Minutes of Settlement

Minutes of Settlement (MOS) are issued after a property owner has applied to the ARB, and MPAC has negotiated a settlement with the property owner, prior to going to the assessment review board hearing. MOS will be sent to the Municipality by the ARB or MPAC.

Post Roll Assessment Notices (PRAN)

At any time during a taxation year, if there was a factual error(s) in the assessed value, classification, or tax status of a property, MPAC has the authority to correct the error by issuing a Post Roll Amended Notice. This notice corrects the assessment provided in a previously issued Property Assessment Notice and is sent to both the property owner and the Municipality.

Advisory Notice of Adjustment (ANA)

Where there has been a change to the assessed value that affects the phase-in values for the current or preceding taxation years and there is no other method to report the revised phase-in values, an Advisory Notice of Adjustment is sent to the property taxpayer. An Advisory Notice of Adjustment is a notification only. These notices are typically used to advise of the change in the phased-in assessment following a decision of the ARB.

Charity Rebates

Section 361 of the Municipal Act requires that municipalities shall have a tax rebate program for eligible charities for the purposes of giving them relief from taxes or amounts paid on account of taxes on eligible property they occupy. The Municipality's program details can be found in By-Law 100-98.

Delivery Address

Property Tax bills and notices are mailed to the address of the property as shown on the Municipality's database unless the taxpayer advises the Municipality, in writing, of an alternate mailing address.

Any bill or notice sent by standard letter mail is considered delivered to and received by the addressee unless the notice is returned by Canada Post and an error in the mailing address is evident. Taxpayers are responsible to notify the Municipality of any changes to a mailing address.

Failure to notify the Municipality of an address change in writing is not an error on behalf of the Municipality, and the resulting failure to receive a tax bill does not excuse a taxpayer from responsibility for payment of the taxes nor relieve liability for penalty due to late payment.

Mortgage Company

A mortgage company responsible for paying property taxes on a specific property will be provided with a listing of roll numbers, taxes due and owing and the due dates for

each property that they have provided the Municipality with notification that they hold an interest in a particular property. Failure to notify the Municipality does not excuse a taxpayer from responsibility for payment of the taxes nor relieve liability for penalty due to late payment.

Tax bills for properties that are paid by the mortgage holder will have a note on the bill that their taxes are paid by mortgage company and that the bill is for information purposes only.

Recalculation of Property Taxes at Time of Sale

Property taxes are assessed on the property, irrespective of the owner. The Municipality will not recalculate the annual property taxes for a part of a year on the date of sale of a property. The property taxes for a property being sold are adjusted for on the Statement of Adjustments prepared by the seller's/purchaser's lawyer when provided. Any questions regarding the calculation of the allocation on property taxes in the case of an ownership change on the sale/purchase of a property should be directed to the lawyers involved in the sale.

Payment Options

Payment of taxes must be received in the Municipality's administrative office (City Hall, 1 Wellington Street), on or before the due date otherwise it will be subject to penalties and interest. See Late Payments Charges/Penalties and Interest section for more information.

The following are the modes of payments that are available for the property owner's use:

- a) Installment or Monthly Pre-authorized Payment Plans (PAP)
- b) Telephone or Internet Banking – using the fifteen digit roll number as the account number (allow sufficient processing time)
- c) At many financial institutions
- d) Payments by a mortgage holder or other registered party
- e) Post Dated Cheques
- f) By regular mail (allow sufficient delivery time. The post mark is not regarded as proof of timely payment)
- g) In person at the City Hall at 1 Wellington Street. An external drop box located at the back of City Hall off Market Square is also available after hours using one or more of the following methods:
 - Cash,
 - Cheque,
 - Money Order, and/or
 - Direct Debit (at the City Hall only)

Credit cards are not accepted for payment of property taxes.

Taxpayers assume the responsibility for the late arrival of the payment when payments are made by mail, telephone/internet banking, and payments made at financial institutions.

Partial payment is not accepted where a Tax Arrears Certificate has been registered against a property, except where the Municipality has entered into an Extension Agreement.

In accordance with Section 347 of the Municipal Act payments shall be applied as follows:

- 1) First to the oldest and all penalty and interest
- 2) Then to the taxes starting with the oldest taxes up to the current, and other amounts deemed to be taxes that have been added to the roll

Pre-Authorized Payment Plan

Pre-authorized payment plans have been implemented to assist taxpayers with their personal budgeting and to ease the possible financial strain of making full installment payments. Properties enrolled in either of the pre-authorized payment plans are not subject to any late payment charges for the non-payment of taxes on the due dates.

Tax bills for properties on a pre-authorized payment plan will have a note on the bill that they are a participant in a preauthorized payment plan and that the bill is for information purposes only.

Taxpayers whose property tax account is in good standing may participate in one of the following plans:

- a) Monthly – provides for a withdrawal from the property owner's bank account on the 1st business day of each month of an amount sufficient enough to ensure that all taxes billed are paid within the current year

The dollar amount to be withdrawn from the participants account shall be recalculated twice a year:

- 1) At the end of each calendar year in December, calculating a monthly amount based on the current year's taxes averaged over twelve payments, to take effect on January 1st of the following year
- 2) After the calculation of the final bill. This calculation would be the current year's taxes, less what has been paid, divided by the remaining months (or

withdrawals) in the year. The revised payment so calculated will commence July 1st

In both cases the property owner shall receive written notification as to the dollar amount change at least ten (10) business days prior to the scheduled payment withdrawal date.

- b) Instalment – provides for a withdrawal from the property owner's bank account, on the due date of an amount sufficient enough to ensure that all taxes due and payable on the said date are paid in full

To enroll in any of the Pre-authorized Payment Plans applicants must submit an application in writing on the Municipality's prescribed form and submit it ten (10) business days prior to the payment withdrawal date.

Participants in the program wishing to make changes to their application (for example banking information), or cancel their participation in the program must do so in writing ten (10) business days prior to the scheduled payment withdrawal date.

Note that pre-authorized payment plans are a courtesy alternative payment plan offered by the Municipality. It is the intention that pre-authorized payment plans are reserved for accounts in good standing. However, the Treasurer may make exception to allow a property owner who has arrears to enter into a pre-authorized payment arrangement, provided there is no history of dishonoured payments with the Municipality.

If a property owner's payment fails to clear the bank two (2) times within a twelve (12) month period, enrollment in the pre-authorized payment plan will be terminated. The property owner may re-apply after a period of one (1) year and if the account is in good standing.

Dishonoured Items and Communication

All payments applied to a tax account that are returned from a financial institution for any reason, with the exception of "post-dated" and "account holder deceased", will be removed from the applicable tax account and shall be charged an administrative fee in accordance with the Municipality's Fees and Charges By-law. The payer shall be advised of the returned payment, administrative fee, and the current balance due and owing on their account.

Late Payments Charges/Penalties and Interest

All Tax Arrears are also subject to penalties and interest. In accordance with Section 345 of the Act and the Municipality's by-laws, penalty and interest shall be charged on any tax arrears that remain outstanding on the first calendar day of each month.

Staff, including the Treasurer, have no authority to waive or alter penalty and/or interest applied to the tax roll, excluding those described below. The taxpayer can delegate to the Council of the Municipality for reconsideration at an open Council meeting. Requests must be submitted to the Clerk who will arrange for the matter to be listed on the next available Council agenda where the matter will be discussed and any decision will be final.

Reductions of penalty and/or interest charged to a property account are limited to amounts related to a tax reduction associated with a tax adjustment, change in assessment or municipal error, and are adjusted only in accordance with:

- a) Tax adjustments under Section 357 of the Municipal Act (application for cancellation, reduction, refund of taxes), Section 354 (2)(b) (as a result of tax relief), and Section 354(3) (uncollectable after tax sale) of the Municipal Act.)
- b) Assessment Review Board decisions
- c) Direction of Council under Section 354(2)(a); and
- d) Approved by the Treasurer as a gross or manifest clerical error under Section 358(1)
- e) As per Section 345(6) and 345(7) of the Municipal Act, if penalty and interest that has accrued on a property tax account as the result of nonpayment, and a write-off of taxes has occurred as a result of one of the legislation tax reduction methods; the penalty and interest shall be reversed as though the taxes had originally been billed correctly

Refunds of Credit Balances on Accounts

From time-to-time property tax accounts may experience credit balances for various reasons, such as:

- a) Duplicate payment made on an account
- b) A reduction in assessed value resulting in a supplementary credit bill issued or change in tax class
- c) Pre-authorized Payments made in advance of an instalment being due

Credit balances will be refunded by cheque or Electronic Funds Transfer (EFT) under the following conditions:

1. Duplicate payment of a tax instalment – The overpayment will be refunded on the written direction of the property owner after ten (10) business days to allow sufficient time for the cheque to clear
2. Mortgage company and property owner both pay an instalment – The property owner must request in writing to have the overpayment refunded, and direct who the overpayment is to be returned to. No overpayment will be refunded unless all instalments billed have been cleared

3. Mortgage company overpays an instalment or no longer represents the property owner. Because the Municipality is not party to any agreements between a financial institution and a property owner, the Municipality will only refund the financial institution overpayment on the written direction of the property owner. No overpayment will be refunded unless all instalments billed have been paid, unless the property has been sold to another owner and a statement of adjustment supports the activity
4. Prior to refunding any credits from the property tax account, the Municipality will verify that all other debts with the Municipality (utilities and miscellaneous accounts receivables, etc.) have been cleared prior to releasing a credit refund. The Municipality reserves the right to refuse a refund of property tax accounts when there are associated accounts with other debt
5. Credit balances on account that arise in whole or in part from an assessment reduction or tax class change will be refunded, but only after the last instalment billed has been cleared. For example: a prior year assessment reduction is calculated in February; the interim tax bills are generated the last week of January with the last instalment on the interim billings due on the last business day in February and April. Any credit balance on the account will be applied first to the two instalments and any other tax arrears and then any remaining credit balance will be refunded to the registered property owner at the time the cheque is issued
6. Credit balances being refunded will be issued to the property owner of record at the time the cheque is issued. Property owners selling properties who have outstanding application(s) should ensure that their solicitors are aware of possible tax reductions. The Municipality will not divide credit balances between previous and current owners as the result of a tax reduction. The Municipality does not have knowledge of, nor wish to negotiate legal agreements that may or may not be in place between the seller and the purchaser

Interest is not paid to account holders that have credit balances.

Tax Arrears Management

Realty taxes have priority lien status on land in priority to any other claim, except a claim by the Crown. Taxes may be recovered with costs as a debt due to the Municipality from the original owner and/or any subsequent owner of the property.

The Municipality will primarily use some or all of the following methods to collect Tax Arrears:

- a) Mail arrears notices following due dates in March, May, September and November
- b) Verbal communication, including telephone inquiries and follow-up
- c) Issue Year End Statements of Taxes, First Notices and Final Notices

- d) Send the taxpayer a form or personalized letter(s)
- e) Enter into a payment arrangement, subject to Treasurer approval
- f) Legal action
- g) Municipal Tax Sale

Year End Statement of Taxes

The Municipal Act requires that the Treasurer send a statement on or before February 28th of each year to any property owner who has arrears on their respective tax accounts. The statement must be the balance at December 31st. Property owners will be charged administrative fees in accordance with the Municipality's Fees and Charges By-law for the preparation of this statement.

Collection Steps

To remind property owners that their tax account is not in good standing, the Tax Department shall send a reminder notice to each property owner, whose account is over ten dollars (\$10.00) in arrears. Arrears Notices shall be forwarded to the property owner on or before the fifteenth (15th) day of each month following a due date that the account is in arrears (March, May, September, and November).

Payment Arrangements

The Treasurer may enter into a payment arrangement agreement with a property owner at any time prior to the registration of a Tax Arrears Certificate. Payment arrangements to clear an account with tax arrears will include all past tax arrears, any current year taxes, accruing estimates of future taxes and penalties and interest. Any payment amount shall be sufficient to ensure payment in full is realized within a reasonable period of time as determined by the Treasurer. Penalties and interest will continue to accrue during all such payment arrangements until full payment on the account has been made.

Pre-authorized payments may be considered for installment payments on payment arrangement agreements at the Treasurer's discretion.

Notwithstanding any such arrangements, no third-party payments will be refused for payment on account (e.g. payment from a mortgagee), as long as the third party has sufficient information regarding the property. Confidential account information will not be released to unauthorized parties.

If acceptable payment arrangements are negotiated, the account is monitored for compliance. Follow-up with the taxpayer is done by telephone or in writing, as required.

Once a payment arrangement has been established, payments must adhere to the approved schedule. If there are two consecutive returned payments or two payments are returned within six months, the payment arrangement is deemed void and the taxpayer is advised that payment in full, by certified funds or money order, is required or the next collection step(s) will be taken.

Collection Steps for Accounts with 2+ Years Arrears

If acceptable payment arrangements are not negotiated, then recovery of all properties with taxes outstanding of two or more years shall be pursued via the Municipal Tax Sale process.

At least once per calendar year, the Treasurer shall review the Property Tax Aged Trial Balance for properties whose taxes are at or approaching two years in arrears.

In addition to issuing Year-End Statements and Arrears Notices as outlined above, the Treasurer will ensure that the following actions will be taken once a property is identified as eligible for tax sale:

- 1) A First Warning Before Tax Sale Registration letter for properties approaching two years in arrears is sent by registered mail advising of the seriousness of the tax arrears and the implications of tax registration. A deadline to pay the arrears or enter into a firm, suitable payment arrangement with the Treasurer is provided at this time. Any payment arrangements made should be documented specifying the time schedule, method of payment and the amount of each payment. No plan should exceed a period of twenty-four (24) months but is at the Treasurer's discretion.
- 2) If the First Warning letter is not responded to or a satisfactory arrangement made, a Final Warning Before Tax Sale Registration letter is mailed. A Final Warning Before Tax Sale Registration letter fee will be added to the account in accordance with the fee established in the Municipality's Fees and Charges By-law. A deadline date for response prior to the file being forwarded to the Municipality's external administrative consultant that handles the Municipality's tax registrations is provided to the ratepayer.
- 3) If the ratepayer does not respond to any of the requests for communication, or satisfactory arrangements have not been made, the file is transferred to Tax Team for the tax registration process to begin.

Tax Sales Proceedings

In accordance with Section 373(1) of the Municipal Act, a property tax account that has any part of two years or more of outstanding taxes as of January 1 of the current year is eligible for tax registration and tax sale proceedings.

Any property that begins the proceedings will follow explicitly the legislative steps outlined below without exception, until such time as the Treasurer deems the process paused or terminated. This is to maintain the Municipality's position and the legitimacy of the process should a subsequent legal matter arise later.

Supplemental and omitted billings are considered arrears based on the year billed, and not the year of the assessment and taxation included in the billing.

Properties that are owned by the Crown and charged payments in lieu of taxes (PIL) are not subject to the tax sale legislation contained in the Municipal Act.

Tax Registration and Tax Sale is a last resort. The Treasurer will make every effort to arrive at a reasonable solution that does not materially disaffect property owners that are in good standing and represent the majority of property owners. Giving property owners sufficient time and assistance to arrive at a satisfactory outcome is the main goal. Municipal staff will make all reasonable efforts to collect arrears prior to proceeding to the formal process of a tax sale.

On a yearly basis, by February 1st, a listing of tax sale qualifying accounts will be generated by the Treasurer, which will be further filtered to acknowledge any properties that already have a registered tax arrears certificate or an executed Extension Agreement registered on title and that have satisfactory payment arrangement agreements on file.

The finalized listing of qualifying tax sale properties, along with required information is provided to the contracted tax registration and sale firm who will facilitate the tax sale process and complete all the statutory notices and declarations.

Any and all costs associated with arrears management including costs incurred by the contracted tax registration and sale firm are billed back to the property and are the responsibility of the current owner.

Farm Debt Mediation Notice

It is legislated that every property listed for tax sale receives a farm debt notice. The purpose of the farm debt notice is to inform farmers of their right under Section 5 of the Farm Debt Mediation Act that they are entitled to make application for a review of their financial affairs. This is the first official communication issued on the Municipality's

behalf by the tax sale company which notifies the taxpayer that the tax sale registration will take place after a fifteen (15) business day period should the arrears not be paid.

Property Title Search Prior to Registration of Tax Arrears Certificate

Every property, prior to a tax arrears certificate being issued, must have a title search performed to ensure that the proper information is on file including registered owners, interested parties and proper land details. Should any anomalies be encountered such as ownership and MPAC related data conflicts, the process on that property will be put on hold until it has been resolved.

All parties with an interest in the property must receive notice of the registering of a tax arrears certificate.

Registration of a Tax Arrears Certificate

If the taxes remain unpaid or an agreement has not been entered into within fifteen (15) business days of the farm debt notice, a Tax Arrears Certificate is registered on title. Once a Tax Arrears Certificate has been registered, only full payment of the Cancellation Price will be accepted unless Council has approved an Extension Agreement.

Partial payments are not allowed once the Tax Arrears Certificate has been registered. Any partial payments that are applied to the tax account in error shall be removed from the tax account and the payment will be refunded without exception.

Within 60 days of registration of the Tax Arrears Certificate, a Notice of Registration of Tax Arrears Certificate is sent to the property owner and all interest parties.

Final Notices

A final notice advises the interested parties that unless the Cancellation Price is paid in full, or an Extension Agreement is entered into the property will be sold by public sale. The Final Notice is sent to all interested parties within thirty (30) days after 280 days have passed since the registration of the Tax Arrears Certificate.

Following the issuance of the Final Notice, Section 379(2) of the Act requires that a statutory declaration regarding the sending of the final notice be made. This declaration should be notarized by a Commissioner of Oaths but does not need to be registered on title.

Cancelling the Tax Sale Process

At any time when the cancellation price is paid during the one-year period from the date of registration of the Tax Arrears Certificate, a Cancellation Certificate will be issued on the property. This may occur when the Municipality receives payment in full of the cancellation price, the Extension Agreement has been fulfilled and the tax account is no longer in arrears, or the Treasurer deems that the tax sale is not in the best financial interest of the Municipality due to neglect, error, omission or it is not desirable to proceed.

Cancellation Price

The cancellation price represents an amount owing at a specific point in time. This means that the cancellation price changes every time a new charge is added to the tax account.

In accordance with subsection 375(1) of the Municipal Act any person may pay the cancellation price to the municipality to cancel the tax arrears certificate.

A person who pays the cancellation price may request an itemized breakdown of the cancellation price that has been paid with a written request to the Treasurer within thirty (30) days of the payment.

The cancellation price may be paid by the former owner any time before title has been transferred from a tax sale, even in a case where there has been a successful tax sale transaction by tender or by auction.

Extension Agreements

To be eligible for consideration, the Extension Agreement (see Appendix B) must include that all current taxes will be paid within the required due dates and that the existing arrears on the account will be paid off within a one to two-year period.

An Extension Agreement must be requested by the property owner, their spouse, the mortgage holder or their legal agent, prior to the one-year period of the registration of the Tax Arrears Certificate.

If no agreement is reached as to the terms, and or the agreement is denied by Council, the tax sale process resumes by returning to the point in the tax sale process immediately prior to the Extension Agreement being requested.

A By-law must be passed by Council authorizing that an Extension Agreement may be entered into with the property owner prior to the expiration of the one-year period from the date of registering the Tax Arrears Certificate.

When an Extension Agreement is entered into, a copy shall be kept by the Municipality and the tax sale process is suspended or placed on hold until all the terms of the agreement have been fulfilled.

If there is a breach of the agreement the tax sale process recommences by returning to that step in the tax sale procedure immediately prior to the Extension Agreement being entered into.

When the terms of the extension agreement have been fulfilled, the Treasurer shall register a Cancellation Certificate on the land title, thus signifying that the tax sale has been cancelled, and the tax sale process stops.

Tax Sale by Public Tender or Public Auction

After a one-year period from the date of registration of the tax sale certificate, if the cancellation price has not been paid or an Extension Agreement has not been executed, the property will be part of a public sale. A public sale can occur by either a sale by tender or a sale by auction. The Treasurer has discretion as to the precise timing and will consider such factors as season, property 'for sale' status or others.

If the Municipality is interested in acquiring the property involved in the tax sale, a staff report will be prepared for Council to consider recommending the Municipality's involvement in the tendering process or public auction.

The Cancellation Price shall be updated /recalculated for the purpose of including in the advertisements of the public sale. This Cancellation Price, also referred to as the bid or tender amount, shall include the arrears as well as current taxes and projected costs.

Properties will be advertised for sale containing the information prescribed in Ontario Regulation 181/03 under the Municipal Act. Advertising will be placed in the Ontario Gazette at least once during the four-week period and in a local newspaper at least once a week for four weeks. Other optional advertising, such as on the website of the tax sale consulting firm may also be undertaken. The tax sale advertisement must clearly state all requirements of the legislated bidding process, including the envelope labelling, submission location, and date and time of the submission deadline.

The Municipal Act provides that the property may be sold by sealed tender or public auction. For each tax sale the property, market conditions, and other relevant factors will be considered at the time of the sale when evaluating which sales method to use. The tender process typically is the most cost effective and straight forward. The auction method could result in a higher than the minimum price required which benefits the current property owner and any interested parties but places a larger administrative burden on staff to ensure the additional proceeds are distributed as legislatively prescribed.

Tender process:

Tender must be submitted on the prescribed Form 7 which can be found in Ontario Regulation 181/03.

A Form 7 can only contain the tender/bid for one parcel of land.

Tenders must be submitted in a sealed envelope addressed to the Treasurer and clearly labelled "Tax Sale" and include a property description and/or municipal address, and be submitted prior to the deadline.

Tenders must be typewritten or legibly handwritten in ink.

Tenders received should be dated and time stamped immediately when received.

Tenders/bids should be retained unopened in a safe place as required in subsection 7(1) of Ontario Regulation 181/03 made under the Act.

In accordance with subsection 7(2) Ontario Regulation 181/03 made under the Act, in the event that there is a tie, the tender/bid that was submitted the earliest and meets all of the other criteria is determined as being the highest.

A tender will be withdrawn if the tender's/bidder's written request to have the tender withdrawn is received by the Treasurer before 3:00 p.m. local time on the last day for receiving tenders.

The tenders must be opened in the Council Chambers, or alternative location determined by the Treasurer or Clerk, and be open to the public for viewing.

The tenders shall close at 3:00 p.m. local time on the last day for receiving tenders in accordance with Ontario Regulation 181/03 made under the Municipal Act.

Tenders shall be opened with at least two persons in attendance. One person must be the Treasurer or designate, and the second person must be a person who did not submit a tender and may be a municipal employee.

The Treasurer or designate will open all of the tender documents and examine for completeness and will reject every tender that:

- a) Is not equal to or greater than the Cancellation Price/minimum tender amount as shown in the advertisement
- b) Is not addressed to the Treasurer
- c) Relates to more than one parcel of land
- d) Has been withdrawn
- e) Is not typewritten or legibly handwritten in ink

- f) Places any condition on the acceptance of the tender
- g) Is not accompanied by a deposit of at least 20 percent of the tender amount, which deposit shall be made by way of money order, bank draft or cheque certified by bank or trust company
- h) Is not one of the two highest remaining tender

Once the successful tender has been declared, the tender deposits of the two highest tenders/bids are retained.

The deposit received from the highest bidder should be deposited immediately into the Municipality's bank account but should not be applied to the tax account. The deposit received from the second highest bidder should be stored in a secure location until either the highest tenderer has completed the tax sale or has defaulted. The remaining deposits shall be returned to the respective bidders. If the tender is not returned in person the day of the tender opening, a written explanation is provided as to the reason for the rejection to any person not in attendance as soon as possible.

The Treasurer shall notify the highest tenderer immediately, by regular mail sent to the address provided in the tender, to advise them that their tender was the highest and will be declared the successful bidder.

Payment must be received from the highest bidder within fourteen (14) days of the date of the notices of highest bidder being mailed by the Treasurer. Upon receipt, the Treasurer shall issue a receipt and declare the highest bidder to be the successful purchaser. If no payment is received within fourteen (14) calendar days of the mail of the notice the deposit is forfeited. A notice is then sent to the second highest bidder and the process repeats.

Should the highest tenderer/bidder default, their deposit is forfeited, and the second highest tenderer is declared the successful bidder. Should the second highest tenderer default, their deposit is forfeited.

Should both the two highest tenderers default, the Treasurer shall declare that there is no successful purchaser and may register a notice of vesting in the name of the municipality.

Auction process:

The auction must be held in the municipality in which the lands are located.

The Treasurer may conduct the tax sale by public auction or may choose anyone else to act as the auctioneer.

The auctioneer or Treasurer shall read out section 15, 16, 17 of Ontario Regulation 181/03 made under the Municipal Act as outlined below:

- a) in opening or reopening the bidding on the parcel, state the minimum bid as set out in the advertisement,
- b) acknowledge each bidder, repeat each bid made and call for higher bids; and
- c) if no higher bid is made, repeat the last bid three times and if there is still no higher bid, acknowledge the highest bidder.

The highest bidder shall be declared to be the successful purchaser if the bidder immediately pays the amount bid, the applicable land transfer tax and the accumulated taxes, in cash, to the auctioneer.

If the highest bidder fails to make the payment as set out in Section 16 of O. Reg. 181/03 and the bidding has not been previously reopened under this Regulation, the auctioneer shall immediately reopen the bidding.

If no bid is made for a parcel of land after the opening of the bidding or if, after the reopening of the bidding under Section 17, no bid is made or there is no successful purchaser, the auctioneer shall declare that there is no successful purchaser.

The auctioneer shall issue a receipt to the successful purchaser for the amounts received under Section 16 of O. Reg. 181/03 and the receipt shall include a legal description of the parcel of land and the name of the purchaser and the name in which the tax deed will be registered.

The auctioneer shall declare the auction closed upon completion of the bidding on all the parcels of land offered for sale in the auction.

The auctioneer shall prepare and keep a list showing each parcel of land offered for sale in the auction and the name and address of the successful purchaser or, where there is no successful purchaser, that there is no successful purchaser.

Payment of Surplus Funds into Court

Sale proceeds less the Cancellation Price, are paid to the Superior Court of Justice together with the Statement of Facts. All of the tax sale costs are added to the Collector's roll before declaring the surplus funds. Surplus funds are not the property of the Municipality. Registered parties on title at the time of the sale may apply to the Superior Court of Justice to access these funds.

Tax Deeds

When there is a successful purchaser, the Municipality, through their tax sale consultant, will prepare and register a tax deed in the name of the successful purchaser once all legislated requirements have been met.

No Successful Purchaser

Where there is no successful purchase, the Municipality has several options, and may issue a Notice of Vesting to begin assuming ownership of the parcel. This would be a decision of Council and a report from the Treasurer would be prepared for Council's consideration of this or any other options.

Should Council pursue this option, upon Council approval the Treasurer shall register a declaration to this effect at the local land registry office. Council has up to two (2) years to decide whether to vest a property. If Council decides to vest the property, then all taxes are written off as uncollectible and the property is then owned by the Municipality to do with what it wishes. If Council decides not to vest, the decision or whether to write off the taxes and issue a tax cancellation certificate and leave the property in the original owner's name is also an option, but this course of action would not likely be utilized except in specific circumstances.

Before recommending vesting the property, the Council may determine that the best course of action is to re-advertise and try to sell the property again under the tax sale process. If that occurs, then the Treasurer will proceed with readvertising for another tender or auction and can do so within two (2) years without writing off the tax arrears. Alternatively, the Treasurer may, within two years after the date of the public sale, offer the land for public sale by public auction or public tender a second time in accordance with the prescribed rules. In order to proceed in this manner, the following requirements must be met:

- a) at least 30 days before the land is re-advertised for public sale, the Treasurer must send to the persons entitled to receive notice under Subsection 379(1) of the Municipal Act a notice that the land will be re-advertised for public sale using the prescribed Form 10 as per O. Regulation 181/03 made under the Municipal Act.
- b) The same rules apply to the process in regard to conducting the second public sale as they did for the first public sale.

Council may also decide to write off all or part of the taxes with the purpose of re-registration of the tax arrears and repeating the tax sale process from the beginning.

These actions are usually considered based upon a report from the Treasurer outlining the potential benefits or risks of proceeding in this manner. A report shall be presented to Council identifying a recommended course of action for either of these next steps.

Miscellaneous

Privacy of Information

The Municipality maintains the physical register of properties referred to as the returned tax roll. The physical roll records are available to view by anyone in the public and contain the following information:

- roll number
- location and description of the property
- assessed property value
- name and mailing address of the legal owner(s)
- tenants (if provided by property owner or tenant) and
- school support

Information about a specific property owner's tax account is generally confidential. Details may be shared as follows based on the circumstance:

- a) Registered Property owners – may have access to assessment and tax information on their property including assessment, taxes levied and arrears.
- b) Non-property owners, including lawyers, real estate agents and brokers, appraisers – May access the information contained in the public roll book only unless written authorization is provided by the registered property owner:
 - a. Assessment
 - b. Lot size
 - c. Legal description
 - d. Annual taxes
- c) Third party inquiries – may have access to the Assessment Roll book only
- d) Mortgage companies – may request in writing the taxes levied and arrears on properties they collect taxes through a landowner's mortgage. If the mortgage company does not hold an interest in the landowner's property taxes, tax information will only be given at the property owner's request.

Property owners can provide written notices to the Municipality to authorize other individuals access to their account information.

Bankruptcy

When a property owner files for bankruptcy, the Municipality remains a secured creditor in a priority position, as any tax arrears is a debt charge against the real property. The Municipality ranks in preference and priority to any other claims, except those of the Provincial and Federal government.

Amounts Added to the Tax roll

Section 398(2) of the Municipal Act allows municipalities to add unpaid balances of other types to the tax roll for collection. The amounts that can be added include property-related types of billings including utilities, water or wastewater balances, property standards, Building Code related items or any other type of charge related to the property or incurred by the property owner. It is the Municipality's intention to utilize this section as needed and will, without notice, transfer amounts to the property roll that are past due for the purposes of collection. These amounts, once transferred, are then treated the same as property taxes for the purposes of collection, arrears, and tax sale proceedings.

The Municipality may also choose to add amounts not described as above to the tax roll for collection purposes and acknowledges that if the amount was not related to the property, that ultimately the collection of the amount outstanding may not be recoverable using this method.

Legislative Authority:

This policy is written in compliance with:

- a) *Assessment Act, R.S.O. 1990, c.A.31 (Assessment Act)*, as amended, and related Ontario Regulations made under this Act.
- b) *Assessment Review Board Act, R.S.O. 1990, c. A.32, (ARB Act)*, as amended, and related Ontario Regulation made under this Act;
- c) *Municipal Act, 2001, S.O. 2001, c. 25 (Municipal Act)*, as amended, and related Ontario Regulations made under the Act;
- d) *Planning Act, RSO 1990, c P.13 (Planning Act)*, as amended, and related Ontario Regulations made under this Act; and
- e) applicable Municipal by-laws, as amended from time to time.

Related Documents:

- By-Law 100-98

APPENDIX A TO POLICY F.1.6

Municipal Property Assessment Corporation (MPAC) Application to the Council or the Assessment Review Board is attached separately.

APPENDIX B TO POLICY F.1.6

Extension Agreement sample is attached separately.