

Municipality of Powassan

Tax Collection Policy

Adopted by Council

November 16, 2021

Municipality of Powassan

Tax Collection Policy

1. Policy Statement

This policy was developed to provide guidance to staff and taxpayers on procedures pertaining to the billing and collection of property taxes. It is designed to be implemented in accordance with the governing legislation.

2. Definitions

For the purposes of this policy:

- (a) **“Cancellation Price”** shall mean an amount equal to all tax arrears, current taxes, interest and penalties thereon, and all reasonable costs incurred by the Municipality after the registration of a tax arrears certificate.
- (b) **“Council”** shall mean the elected Mayor and Council of the Corporation of the Municipality of Powassan.
- (c) **“Extension Agreement”** shall mean a contract between the Municipality and the property owner(s) to establish a fixed repayment schedule by which the Cancellation Price will be paid, which shall be entered into after the registration of a Tax Arrears Certificate and prior to one (1) year following the registration date.
- (d) **“MPAC”** shall mean the Municipal Property Assessment Corporation.
- (e) **“Municipality”** shall mean the Corporation of the Municipality of Powassan.
- (f) **“Tax Arrears”** shall mean any portion of property taxes that remain unpaid after the date on which they are due.
- (g) **“Tax Arrears Certificate”** shall mean a document which is registered on title, indicating that the described property will be forced into a municipal tax sale if all property taxes are not paid to the Municipality within the period stipulated.
- (h) **“Treasurer”** is the person appointed by the Municipality who is responsible for handling all of the financial affairs of the Municipality on behalf of, and in the manner directed by, Council.

3. Purpose

The purpose of this policy is to establish efficient and effective procedures and processes for property tax billing and collection for the Municipality, and to ensure municipal tax revenues are collected in a timely and effective manner.

4. Scope

This policy covers all aspects related to the billing and collection of property taxes and any amounts added to the roll for collection, up to and including the initiation of tax sale proceedings.

5. Legislative Authority

This policy is written in compliance with the Municipal Act, S.O. 2001 (The Act), Parts VIII, IX, X, and XI in particular, related Ontario Regulations made under *The Act*, the Planning Act, the Assessment Act, and any applicable Municipal by-laws, as amended. Should there be any incongruences between the policy and the governing legislation, the provisions of the governing legislation will prevail.

6. Objectives

The objectives of this policy are as follows:

- (a) Establish procedures for the billing of property taxes;
- (b) Ensure the timely collection of property taxes;
- (c) Establish processes to collect property taxes; and
- (d) Establish processes to collect property tax arrears.

7. Governing Principles

- 7.1 The procedure of collecting property taxes should be applied universally, uniformly, and consistently.
- 7.2 The Treasurer or designate may exercise discretion in furthering the objectives of this policy.
- 7.3 The Treasurer or designate may take all means necessary provided within the *Municipal Act, 2001, as amended*, to balance taxpayer's interests with those of the Municipality. In doing so, the Treasurer or designate will strive to keep to a minimum the administrative and legal cost.
- 7.4 At all times, the Municipality should take reasonable care to respect and protect the interests of the taxpayer as well as those of the Municipality, including rights to privacy and confidentiality.

8. Accountability

- 8.1 The Treasurer is responsible for ensuring that property tax collection processes are performed in accordance with this policy and all applicable legislation.
- 8.2 The Treasurer or designate is responsible for:
 - 8.2.1 Ensuring this policy remains consistent with current legislation;
 - 8.2.2 Ensuring applicable staff are aware of, and trained on, this policy;
 - 8.2.3 Communicating any policy revisions to applicable staff; and

- 8.2.4 Assessing overdue property tax accounts to ensure tax collection processes are performed in accordance with this policy.

9. Billing Procedures

- 9.1 Billing will be in two (2) stages – Interim and Final Billing. A by-law passed in advance by the Municipality is a requirement to bring into effect both the Interim and Final Tax Billings.
- 9.2 The Tax Bill will contain the required information as set out in Section 343(2) of the *Municipal Act, 2001, as amended*, as well as any other information that is deemed necessary by the Treasurer or designate.
- 9.3 The Tax Billing may contain local improvement charges, area charges, business improvement area charges, and any special charges levied by the Municipality or provincial government.
- 9.4 **Interim Tax Billing:**
- 9.4.1 Interim Tax Bills are based on the returned assessment roll from MPAC. As authorized under Section 317 of *The Act*, the Municipality will bill a property under this category based on no more than 50% of the previous year's annualized taxes billed.
- 9.4.2 Interim Tax Bills are produced in February of every year.
- 9.4.3 The Treasurer or designate shall send a tax bill to every taxpayer at least twenty-one (21) days before any taxes shown on the tax bill are due.
- 9.5 **Final Tax Billing:**
- 9.5.1 Final Tax Bills are based on the tax rates established according to the Municipal budget by-law and the Ontario Ministry of Finance, which sets the education tax rate.
- 9.5.2 Final Tax Bills are produced in June of each year.
- 9.5.3 The Treasurer or designate shall send a tax bill to every taxpayer at least twenty-one (21) days before any taxes shown on the tax bill are due.
- 9.5.4 Final Tax Bills are based on the sum of the current value assessment of the property multiplied by the appropriate tax rates, plus all local improvement charges, business improvement charges, and any special charges levied by provincial legislation.
- 9.5.5 The Final Tax Bill payable will be the sum of the Interim Tax Bill deducted from the final tax amount.

9.6 **Supplementary Tax Billing:**

9.6.1 MPAC usually provides additional assessment information on properties that necessitates a supplemental bill. The Municipality will bill for these supplementary assessments as soon as it received the data from MPAC, or at the time of final billing for the current year.

9.6.2 Supplementary taxes are due on the date identified on the Supplementary Tax Bill.

9.6.3 The *Assessment Act* provides two grounds when supplementary tax billing can be applied:

9.6.3.1 **Omissions**

- (a) The Assessment Act, Section 33, provides grounds for the taxation of real property liable for taxation if that property was omitted in the tax roll of that current year at the time of assessment.
- (b) The taxable period allowed is the current year and the preceding two (2) years.
- (c) The supplementary tax billing should be treated as part of the full tax for the current year.
- (d) The Supplementary Tax Bill will be post-marked and mailed not later than twenty-one (21) days from the date of the first installment due date.

9.6.3.2 **Additions**

- (a) The *Assessment Act*, Section 34, provides grounds for taxation of assessment of real property that has increased in value or has been added after the return of the last revised roll. The real property could have increased in value through the erection, alteration, enlargement, or improvement of any building, structure, machinery, equipment, or fixture or any portion thereof that commences to be used for any purpose.
- (b) The supplementary tax billing should be treated as part of the full tax for the current year.
- (c) The Supplementary Tax Bill will be post-marked and mailed not later than twenty-one (21) days from the date of the first installment due date.
- (d) The taxes apply to the current year only.

9.7 Apportionment Tax Billing

- 9.7.1 Section 356 of *The Municipal Act, 2001, as amended*, provides grounds for apportioning property taxes to present owners for lands previously assessed as one block but subsequently severed or otherwise subdivided into two or more distinct parcels.
- 9.7.2 The apportionment should reflect the revised configurations and the levied and unpaid property taxes.
- 9.7.3 The apportionment should be treated as part of the full tax for the current year, and the payment period should not exceed time allowable as per *The Act*.

9.8 Due Dates

Notwithstanding fluctuations as a result of budget approval or other unforeseeable delays, due dates for the payment of property taxes are as follows:

9.8.1 Interim Tax Bill:

- (a) interim taxes are billed in a single installment, due and payable by the last business day in March of each year.

9.8.2 Final Tax Bill:

- (a) The first installment of the final billing is due and payable by the last business day in July of each year.
- (b) The second installment of the final billing is due and payable by the last business day in September of each year.

9.8.3 Supplementary Tax Bill:

- (a) Supplementary taxes shall be billed in two installments. The first installment shall be due no less than twenty-one (21) days from the billing date, and the second installment shall be due no less than twenty-eight (28) days thereafter.
- (b) Notwithstanding the above, when supplementary taxes are billed with the Final Tax Billing, the installment due dates shall be as per Section 9.8.2 of this policy.

10. Mailing of Bills

- 10.1 Any notices of property taxes or letters sent by ordinary mail are considered delivered to, and received by, the addressee unless the notice or letter is returned by the Post Office or an error in the mailing address is proven. Failure to notify the Municipality of an address change is not deemed an error.
- 10.2 Section 343 of the *Municipal Act, 2001, as amended*, provides that tax bills shall be sent to the taxpayer's residence or place of business or the premises where the taxes are payable for, unless the taxpayer directs the municipality otherwise.

Further, Section 343(8) of the *Municipal Act, 2001, as amended*, directs a municipality to continue to deliver tax bills to the address in its records until it is revoked in writing by the taxpayer.

- 10.3 Where allowed by legislation, and where available, the provision of tax bills, arrears notices, and other related correspondence may be provided electronically.

11. Payment of Bills

- 11.1 Tax billings are payable to the Corporation of the Municipality of Powassan, 250 Clark Street, PO Box 250, Powassan ON P0H 1Z0. The following payment methods are accepted for property taxes:

- (a) Debit and cash payments may be received in person at the reception desk of the Municipal Office.
- (b) Telephone or internet banking through most Canadian financial institutions.
- (c) Cheques may be delivered in person, dropped in the after-hours dropbox at the front door of the Municipal Office, or mailed. The date the payment is received must be no later than the installment due date in order to avoid penalties and interest.
- (d) Payments may be made at most Canadian financial institutions. The date of the teller's stamp is considered to be the date of payment.
- (e) Payments may be made by a mortgage company or other financial institution on behalf of a taxpayer.
- (f) Through any preauthorized tax payment plans (PTAP) as offered by the Municipality, and subject to the terms and conditions attached thereto. Properties which have held an arrears balance in either the current or previous calendar year shall not be permitted to join the PTAP program.

- 11.2 "Third Party" cheques will not be accepted. A cheque payable to the property owner is considered to be a third-party cheque and is not an acceptable form of payment.

- 11.3 In accordance with Section 347 of *The Act*, payments shall be applied as follows:

- (a) First, to penalties and interest charges owing;
- (b) Then, to taxes in reverse chronological order; and
- (c) Finally, to any other charges added to the roll.

- 11.4 Change will not be returned for non-cash payments accepted in excess of the amount due on the tax account. Should a credit appear on the tax account as a result of a payment, it will be applied to subsequent installments not yet due in the current or future years. However, upon the written request of the property owner, a refund may be processed provided that a minimum of fifteen (15) business days

have passed since the payment was received and the amount being requested for return is no less than \$50.00.

- 11.5 If a taxpayer submits two (2) NSF cheques for tax payment within one (1) calendar year, personal cheques will no longer be accepted unless they are certified. A fee will be charged on all NSF cheques as per the current fees by-law.
- 11.6 Should a payment be tendered in U.S. funds, it will be accepted at the exchange rate established by the financial institution holding the accounts of the Municipality on the day it is posted.

12. Collection Procedures

12.1 General

- 12.1.1 Property taxes which remain unpaid after the Interim and Final Billing due dates are considered in arrears. Past due notices shall be sent bi-annually to all taxpayers with an arrears balance greater than \$10.00. The first notice shall be mailed in May, and the second notice shall be mailed in October.
- 12.1.2 In addition to notices, personal contact may be made by the Treasurer or designate where deemed necessary and appropriate by way of telephone, personal interviews, or email.

12.2 Late Payment Charges

- 12.2.1 Penalty at a rate of 1.25% on the amount of property taxes due and unpaid may be imposed as a penalty for the non-payment of property taxes on the first day of default.
- 12.2.2 Interest charges at a rate of 1.25% will be applied on the first day of each month on the amount of property taxes due and unpaid. Interest will accrue only after the first day of default of the installment due date.
- 12.2.3 Where the rate of 1.25% per month is the maximum allowable under the *Municipal Act, 2001, as amended*, Council may adjust or alter the rate for penalty and interest by adopting an alternate rate by by-law.
- 12.2.4 Properties which are enrolled in the PTAP, where the total of the current and outstanding taxes, penalties, and interest will be paid by December 31 of the year enrolled, will be exempt from further late payment charges.
- 12.2.5 Late payment charges will not be waived or reduced under any circumstances, unless they have arisen as a result of an error on the part of the Municipality or where otherwise deemed appropriate in the sole discretion of the Treasurer.

12.3 Properties in Distress

- 12.3.1 If any part of tax arrears are due with respect to any land on the first (1st) day of January in the second (2nd) year following that in which the property taxes become owing, that property shall be considered in distress.

- 12.3.2 For tax accounts which will be considered in distress as of January of the following calendar year, a collection letter is to be sent in November of the current year to the property owner(s) advising of the current delinquency and tax arrears situation and asking for payment in full or satisfactory payment arrangements to be made by a given date. Letters and correspondence should encourage payment.
- 12.3.3 If acceptable arrangements are made, the account is monitored for compliance and follow-up made be made in writing or by telephone as required.
- 12.3.4 If no reply is received, a second letter is to be sent in December stating that failure to reply will result in further actions being taken to collect the outstanding taxes, which will result in additional costs to the property owner.
- 12.3.5 If no response is received with respect to the second letter, and/or the property owner and Municipality are not able to negotiate a mutually beneficial repayment arrangement, a final notice will be sent in January providing a date by which a Tax Arrears Certificate will be registered on title should satisfactory arrangements not be made.
- 12.3.6 If no response is received, or payment arrangements satisfactory to the Municipality in its sole discretion are not made, the Treasurer or designate will commence an action as set out in Section 13 of this policy to enforce collection.

13. Collection Procedures on Tax Arrears

As outlined under Section 349 of the *Municipal Act, 2001, as amended*, taxes are a special lien on the land in priority to every claim, privilege, lien or encumbrances of every person except the Crown, and the lien and its priority are not listed or impaired by any neglect, omission or error of the Municipality or its agents or through taking no action to register a Certificate of Tax Arrears. Section 349 of *The Act* provides that taxes may be recovered with costs as a debt due to the municipality from the taxpayer originally assessed from them and from any subsequent owner of the assessed land or any part of it.

There are four methods set out by legislation that the Municipality may use to collect any unpaid taxes:

- (a) **Bailiff Action:** Section 349 of *The Act* provides that taxes may be recovered with costs as a debt due to the municipality from the taxpayer originally assessed for them, and from any subsequent owner of the assessed land or any part of it.
- (b) **Collection Agency:** Section 304 of *The Act* provides that, if a municipality uses a registered collection agency in good standing under the Collection Agencies Act to recover a debt, including taxes, payable to the Municipality, the collection agency may recover its costs as long as those costs do not exceed the amount approved by the Municipality.

- (c) **Rent Attornment:** Under Section 350 of *The Act*, where taxes are owed in respect of any land occupied by a tenant, the Municipality may seize the rents of an income producing rental property upon giving proper notice.
- (d) **Tax Registration/Tax Sale:** Section 373 of *The Act* provides that, where any part of tax arrears is owing with respect to land in a municipality on January 1st in the second (2nd) year following that in which the real property taxes become owing, the Treasurer of the municipality or designate may prepare and register a tax arrears certificate against the title to that land.

14. Tax Registration/Tax Sale Process

- 14.1 Properties that are in arrears on January 1 of the second (2nd) year in which the property taxes are due are eligible for tax registration under Section 373 of *The Act*. The Treasurer or designate will work with the property owner to negotiate an adequate payment arrangement of all outstanding taxes, penalties, and interest.
- 14.2 If the property owner is unresponsive to any communications from the Municipality, adequate payment arrangements have not been made, and/or where it is deemed by the Treasurer or designate to be in the best interests of the Municipality, a tax arrears certificate shall be registered against the property.
- 14.3 The property owner(s) or other interested party has one (1) year from the date of registration in which to redeem the property for all taxes, interest, and penalties outstanding, as well as any associated costs incurred by the Municipality.
- 14.4 If a Tax Arrears Certificate has been registered against the property, no partial payments can be accepted by the Municipality unless the property owner(s) have entered into an Extension Agreement with the Municipality. As outlined under Section 378 of *The Act*, the Treasurer or designate may, at their discretion, enter into such an Extension Agreement with or without Council review and consideration.
- 14.5 The Treasurer or designate may make every effort to assist the property owner(s) to remit the cancellation price within one (1) year of certificate registration. Payment of the cancellation price will include any and all fees incurred by the Municipality in during the collection process, as well as any administrative charges imposed by the Municipality's fees by-law.
- 14.6 The Municipality will use a third-party to carry out the tax sale process as outlined in the Municipal Tax Sale rules.
- 14.7 The Treasurer or designate may proceed with registration following the procedures as outlined in *The Act*, up to a realization of the tax arrears or possession and sale of the property.
- 14.8 All costs associated with the Tax Sale will be added to the tax roll and interest charged thereon, to be fully recovered by the Tax Sale.

15. Vesting

- 15.1 Where there is no successful purchaser in a Tax Sale, a Notice of Vesting may be issued and the Treasurer or other agent shall register a declaration to that effect at the local land registry office. Council has two (2) years to decide whether to vest a property.
- 15.2 Council may elect to re-advertise for another tender or auction within two (2) years without writing off the tax arrears. If Council elects not to vest, Council may choose to write off the taxes and issue a tax cancellation certificate. 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.
- 15.3 If Council decides to vest the property, the tax arrears will be written off and the property may be declared surplus and advertised for sale.

16. Write-offs

- 16.1 From time to time, adjustments may be made to a tax roll which reduce the total amount of property taxes owing. The following are potential sources of credit-generating adjustments:
 - (a) **Request for Reconsideration:** a property owner may be eligible to have their property reassessed if they feel that there are discrepancies in the original assessment.
 - (b) **Section 357/358/359 Application:** A property owner may be eligible to have their property assessment adjusted by MPAC if any one or more reasons apply under Section 357/358/359 of *The Act*. The current owner may revert back up to three (3) years, if applicable.
 - (c) **Vacancy Rebates:** A property owner may be eligible for a vacancy rebate on their commercial or industrial taxes if the building has not been used for any purposes for a minimum of ninety (90) days.
- 16.2 Upon receipt of MPAC-approved assessment adjustments, the Treasurer or designate will have the authority to apply said adjustments to the property tax roll and apply any credits to the tax account.
- 16.3 A property owner seeking a vacancy rebate must submit a completed and signed Commercial/Industrial Vacancy Rebate application to the Municipal office by February 28th of the year following the vacancy.
- 16.4 By default, any credits posted to a tax account will be used to offset future tax levies. However, the owner may request, in writing, a refund of the credit balance on their tax account. Any refunds issued will be in the name of all registered owners on the account.