

Policy Title: Collection of Outstanding Property Taxes

Policy Number: 04-02-03

Section:	Finance and Accounting	Subsection:	Taxes
Effective Date:	April 23, 2019	Last Review Date:	April, 2019
Approved by: Council	Owner Division/Contact: Manager, Revenue and Taxation Revenue & Materiel Management Division, Corporate Services Department		

Policy Statement

The City of Mississauga collects taxes on behalf of the City, the Region of Peel, the school boards and the local Business Improvement Areas and is responsible to ensure all overdue Property Taxes are collected.

Purpose

The purposes of this policy are to establish fair and equitable processes for the collection of overdue municipal Property Taxes and to outline how such payments will be applied.

Scope

This policy covers all aspects of the collection of overdue Property Taxes up to the initiation of Municipal Tax Sale proceedings. All procedures related to a Municipal Tax Sale are carried out in accordance with Regulation 181/03, as amended and are not detailed in this policy.

This policy excludes collection of payments-in-lieu of taxes.

Legislative Authority

This policy is written in compliance with the *Municipal Act, 2001*, (the Act), related Ontario Regulations made under the Act and applicable City by-laws, as amended.

Definitions

For the purposes of this policy:

“Bailliff” means a duly appointed agent under contract with the City to recover outstanding Property Taxes.

“Cancellation Price” means an amount owing equal to all Tax Arrears, together with all current taxes owing, Late Payment Charges and costs incurred by the City after the registration of a Tax Arrears Certificate.

“Collection Costs” means all costs incurred by the City 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 scale of costs.

“Extension Agreement” means a contract between the City and the owner of the land, 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.

“Late Payment Charges” means penalties and interest applied by the City to unpaid Property Tax accounts, in accordance with section 345 of the Act and applicable City by-laws.

“Municipal Tax Sale” means the sale of land for Tax Arrears according to proceedings prescribed by the Act and Ontario Regulation 181/03, as amended.

“Property Taxes” means the total amount of taxes for municipal and school purposes levied on a property and includes other amounts added to the tax roll for collection purposes, as may be permitted by applicable legislation.

“Tax Arrears” means Property Taxes that remain unpaid after the date on which they 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.

Administration

This policy is administered by the Revenue Section, Revenue and Materiel Management, Corporate Services Department.

Policy Structure

The collection steps outlined in this policy differ for each property type and are divided into four (4) distinct sections:

- Collection Steps – All Property Types - this section begins on page 5
- Collection Steps – Residential Properties - this section begins on pages 5
- Collection Steps – Non-Residential Properties - this section begins on page 7
- Collection Steps – Crown Tenants - this section begins on page 8

Accountability

Director

The Director, Revenue and Materiel Management, Corporate Services Department, is responsible for ensuring that outstanding Property Tax collection processes are performed in accordance with this policy and all applicable legislation.

Manager, Revenue and Taxation

The Manager, Revenue and Taxation, is responsible for:

- Ensuring this policy remains consistent with current legislation
- Ensuring applicable staff are aware of and trained on this policy
- Communicating any policy revisions to applicable staff, and
- Assessing overdue Property Tax accounts to ensure tax collection processes are performed in accordance with this policy

Delivery of Tax Bills

Property Tax bills and notices are mailed to the address of the property as shown on the tax roll unless the taxpayer advises the City, in writing, of an alternate mailing address. Use of the alternate mailing address continues until it is revoked in writing or ownership of the property changes. The Act also permits Property Tax Bills to be delivered electronically as per the taxpayer's instructions.

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. Any bill or notice sent electronically is considered delivered to and received by the addressee unless the email is returned (bounced back) undeliverable. Taxpayers are responsible to notify the City of any changes to a mailing address(es). Failure to notify the City of an address change in writing is not an error on behalf of the City.

Late Payment Charges/Collection Costs

All Tax Arrears are subject to Late Payment Charges. A penalty at a rate established by by-law is added to the unpaid amount of a tax instalment on the first day after the instalment due date. In addition, as long as the Property Taxes remain unpaid, interest at a rate established by by-law is added on the first day of each month thereafter. Penalty and interest charges cannot be waived.

All Collection Costs incurred by the City to obtain information for collection purposes and/or collect Tax Arrears are payable by the property owner and are added to the tax account, with the exception of Bailiff fees, which are charged and collected by the Bailiff directly.

Application of Payments

Property Tax payments are applied as follows:

1. The payment is first applied against any Late Payment Charges according to the length of time the charges have been outstanding, with the charges that have been outstanding the longest being discharged first.
2. The payment is then applied in the same manner against the Property Taxes owing, with the Property Taxes that have been outstanding the longest being discharged first.

Note: Partial payment is not accepted where a Tax Arrears Certificate has been registered against a property, except where the City has entered into an Extension Agreement. If a partial payment is received, it will be returned or refunded, as appropriate.

Tax Arrears Collection

Realty taxes are a secured special lien 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 City from the original owner and/or any subsequent owner of the property.

The City will primarily use the following methods to collect Tax Arrears:

- Verbal communication
- Send the taxpayer a form or personalized letter(s)
- Issue Notice of Overdue Taxes and Final Notice
- Arrange terms of payment
- Issue Notices to Interested Parties
- Issue Notice of Impending Registration
- Bailiff services
- Legal action, and
- Municipal Tax Sale

Different collection processes have been established for the following types of properties:

Property Type		Description
A	Residential	Properties that are assessed in the Residential or Farm property class
B	Non-Residential	Properties with any portion of assessment in the Commercial, Industrial or Multi-Residential property class
C	Crown Tenants	Crown owned properties leased to a taxable tenant; in accordance with section 18 of the <i>Assessment Act</i> , R.S.O. 1990, c. A.31, the property is assessed as though the tenant were the owner.

Collection Steps – All Property Types

Year End Statement of Taxes

In January of each year, in accordance with tax legislation, a Year End Notice is sent to all taxpayers with an overdue amount greater than ten dollars (\$10.00) who owed taxes as of December 31st of the preceding year.

Overdue Notices

A minimum of one Notice of Overdue Taxes will be issued each year following the last Final Billing instalment and will be sent to all taxpayers with an overdue amount greater than ten dollars (\$10.00).

Payment Arrangements

Staff may enter into payment arrangements at any time prior to the registration of a Tax Arrears Certificate. Payment arrangements must include all Tax Arrears, current taxes, accruing estimates of future taxes and Late Payment Charges and be sufficient to ensure payment in full is realized within a reasonable period of time. Late Payment Charges will continue to accrue during all such payment arrangements until full payment on the account has been made.

Authorization for extending payment terms is as follows:

STAFF LEVEL	MAXIMUM NEGOTIABLE PAYMENT ARRANGEMENT TERM		
	Residential	Non-Residential	Crown Tenant
Director	> 36 months	> 36 months	> 24 months
Manager	36 months	36 months	24 months
Supervisor/ Team Leader/Collection Coordinator	24 months	18 months	15 months
All Other Staff	18 months	12 months	9 months

Notwithstanding any such arrangements, no third party payments will be refused for payment on account (e.g. payment from a mortgagee).

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, if there are three defaulted payments, 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 will be taken.

Collection Steps – Residential Properties

In addition to issuing Year End Statements of Taxes and Overdue Notices each year, the following actions will be taken once a residential property owner is three years in arrears:

1. Final Notice
2. Notice to Interested Parties
3. Notice of Impending Registration
4. Tax Arrears Certificate Registration

Final Notice

In the fourth quarter of each year, Final Notices are mailed to those residential property owners approaching three years of Property Taxes in arrears. The Final Notice advises that they have thirty (30) days to pay the taxes or enter into a firm, suitable payment arrangement with the City.

Notice to Interested Parties

If a residential property owner fails to respond to the Final Notice, a property title search is carried out by the City in order to identify all parties with a financial interest in the property. The identified parties are then notified of the Tax Arrears. The Notice to Interested Parties advises that the City intends to proceed with a Municipal Tax Sale and provides interested parties with an opportunity to pay the arrears in order to protect their interest in the property.

Third Party Collection

The City is authorized to utilize third party services as needed, including a Bailiff to expedite collection for residential tax accounts which are three (3) years or more in arrears and have received all the previously described notices. The Bailiff will perform a site visit and advise the property owner, mortgage company, lawyer or interested parties of the pending registration or tax sale of the property and attempt collection. The costs of the Bailiff service are the full responsibility of the property owner.

Notice of Impending Registration

If neither the property owner nor interested parties responds to the previous notices, or the attempts by Bailiff to collect have not been successful, a Notice of Impending Registration is issued as one last notification to the property owner of their outstanding balance prior to proceeding with a Municipal Tax Sale. The Notice of Impending Registration advises the property owner that they have thirty (30) days to pay their taxes or enter into a firm, suitable payment arrangement with the City. Otherwise, the City will register a Tax Arrears Certificate against their property.

A Notice of Intent to Realize on Security that asks if the taxpayer is currently engaged in farming for commercial purposes and as required by the *Farm Debt Mediation Act*, is sent with the Notice of Impending Registration.

Tax Arrears Certificate Registration

Municipal Tax Sale proceedings can begin once taxes have been in arrears for at least two (2) years. The City will utilize other collection efforts for at least three (3) years prior to initiating the tax sale process.

Once all other collection efforts are exhausted and the City has been unable to secure payment of the Tax Arrears or a firm, suitable payment arrangement, the City commences Municipal Tax Sale proceedings by registering a Tax Arrears Certificate against the property. Once a Tax Arrears Certificate has been registered, only full payment of the Cancellation Price will be accepted. In the event of non-payment, the City will proceed with a Municipal Tax Sale.

Collection Steps – Non-Residential Properties

In addition to issuing Year End Statements of Taxes and Overdue Notices, once a non-residential property owner's current year's taxes are in arrears, the following actions will be taken:

1. Final Notice
2. Bailiff Action
3. Notice to Interested Parties
4. Notice of Impending Registration
5. Tax Arrears Certificate Registration

Final Notice

In the fourth quarter of each year, a Final Notice is mailed to every non-residential property owner with an outstanding balance greater than \$100, advising the taxpayer that they have thirty (30) days to pay their taxes or enter into a firm, suitable payment arrangement with the City. Otherwise, their account will be issued to a Bailiff for collection. The costs of the Bailiff Service are the full responsibility of the property owner.

Bailiff Action

Accounts that fail to respond to the Final Notice and have Tax Arrears greater than \$100 are issued to the Bailiff for collection. Once a Tax Warrant is issued, the property owner makes payments on the outstanding amount directly to the Bailiff.

Bailiff tax recovery actions include:

- Serving a Warrant to Distrain for Taxes (Warrant) to the assessed address advising the property owner of such outstanding taxes, Late Payment Charges and lawful costs of said distress
- Mailing notices to the property owner advising that a Warrant has been issued and the amount of the Warrant
- Telephone contact with the property owner(s), mortgage holder(s) and all other parties with an interest on title
- Site visits
- Attornment of Rent(s), directing the tenants, if applicable, to submit rent payments to the Bailiff. Attornment of Rents are then applied against the outstanding Property Taxes
- Issuing a Warrant to Seize Goods/Chattels. The Bailiff can physically seize and remove goods/chattels from the property and ultimately sell items seized to recover the Tax Arrears, and

- Issuing a Warrant to Distrain Goods/Property. The Bailiff can register a common law lien against goods/property located in or on an owner's property

If the Bailiff has been unable to collect the outstanding amount and the taxes become three (3) years in arrears, the account is returned to the City to proceed with Municipal Tax Sale.

Notice to Interested Parties

If a non-residential property owner fails to respond to the Bailiff, a property title search is carried out by the City in order to identify all parties with a financial interest in the property. A corporate search is conducted to verify the status of the corporation. If the corporation is active, the identified parties from the title search are notified of the Tax Arrears. The Notice to Interested Parties advises that the City intends to proceed with Municipal Tax Sale and provides interested parties with an opportunity to pay the arrears in order to protect their interest in the property. If the corporation is inactive, as per *Municipal Act*, Section 373.1(1), the expedited tax sale process will be initiated.

Notice of Impending Registration

If interested parties do not respond, a Notice of Impending Registration is issued as one last notification to the property owner of the outstanding balance prior to proceeding with Municipal Tax Sale. The Certificate advises the property owner that they have thirty (30) days to pay their taxes or enter into a firm, suitable payment arrangement with the City. Otherwise, the City will register a Tax Arrears Certificate against their property.

A Notice of Intent to Realize on Security that asks if the taxpayer is currently engaged in farming for commercial purposes and as required by the *Farm Debt Mediation Act*, is sent with the Notice of Impending Registration.

Tax Arrears Certificate Registration

Municipal Tax Sale proceedings can begin once taxes have been in arrears for at least two (2) years. The City will utilize other collection efforts for at least three (3) years prior to initiating the tax sale process. Once all other collection efforts are exhausted and the City has been unable to secure payment of the Tax Arrears or a firm, suitable payment arrangement, the City commences Municipal Tax Sale proceedings by registering a Tax Arrears Certificate against the property.

Once a Tax Arrears Certificate has been registered, only full payment of the Cancellation Price can be accepted. In the event of non-payment, the City will proceed with a Municipal Tax Sale.

Collection Steps – Crown Tenants

When Crown property is leased to or occupied by a taxable tenant, the land is assessed as if the tenant is the owner and the tenant is then responsible for the payment of Property Taxes. The Municipal Tax Sale provisions of the Act do not apply to Crown property.

In addition to issuing Year End Statements of Taxes and Overdue Notices, once a Crown tenant's current year's taxes are in arrears the following actions will be taken:

1. Final Notice
2. Bailiff Action
3. Legal Action
4. Application to Crown

Final Notice

In the fourth quarter of each year, a Final Notice is mailed to every Crown tenant with an outstanding balance greater than \$100, advising the tenant that they have thirty (30) days to pay their taxes or enter into a firm, suitable payment arrangement with the City. Otherwise, their account will be issued to a Bailiff for collection. The costs of the Bailiff's service are the full responsibility of the Crown tenant.

Bailiff Action

If a Crown tenant fails to respond to the Final Notice, the City issues a Tax Warrant to the Bailiff to collect the outstanding taxes. Once a Tax Warrant is issued, the Crown tenant makes payments on the outstanding amount directly to the Bailiff.

Bailiff tax recovery actions include:

- Serving a Warrant to Distrain for Taxes (Warrant) to the assessed address advising the Crown tenant of such outstanding taxes, Late Payment Charges and lawful costs of said distress
- Mailing notices to the Crown tenant advising that a Warrant has been issued and the amount of the Warrant
- Telephone contact with the Crown tenant
- Site visits
- Attornment of Rent(s) - if the property is sub-leased by the Crown tenant, the Bailiff can direct the sub-tenant to submit rent payments to the Bailiff. Attornment of Rent(s) are then applied against the outstanding Property Taxes
- Issuing a Warrant to Seize Goods/Chattels. The Bailiff can physically seize and remove goods/chattels from the property and ultimately sell items seized to recover the Tax Arrears, and
- Issuing a Warrant to Distrain Goods/Property. The Bailiff can register a common law lien against goods/property located in or on a tenant's property

Legal Action

If the Bailiff is unable to collect the overdue amount or secure a payment arrangement within six (6) months of the assignment date, the account is returned to the City. Legal action may then be commenced by the Legal Services Division where the company is viable and it is cost effective to do so.

Application to the Crown

If all collection steps are exhausted, the City shall make application to the Crown for payment of the tenant's Tax Arrears.

Cancellations & Write-Offs**Cancellation of Late Payment Charge**

Late Payment Charges are cancelled only in the following circumstances:

- Taxes are adjusted under section 334, 354, 357 or 358 of the *Municipal Act, 2001*
- Taxes are adjusted following a change in assessment under the *Assessment Act*
- Penalty and/or interest were charged as a result of the City's error or omission

The amount of Late Payment Charges cancelled is limited to the amount related to the tax reduction associated with a tax adjustment, change in assessment or City error or omission.

Minimum Balance Write-off

A balance owing of less than ten dollars (\$10.00) on an account after payment is received will automatically be written off following the last interim instalment date and at December 31st each year, as it is uneconomical for the City to pursue collection of these amounts.

Uncollectible Tax Write-offs

In accordance with Section 354 of the Act, uncollectible taxes may be approved for write-off by Council on the recommendation of the Treasurer, Finance Division, Corporate Services Department or their designate in writing.

Miscellaneous**Bankruptcy**

When a property owner files for bankruptcy, the City is a secured creditor, as the tax debt is a charge against the real property. The City ranks in preference and priority to any other claims, except those of the Provincial and Federal government. A letter is forwarded to the trustee advising them of the City's claim and priority lien status of the taxes.

Contaminated Property

Council shall approve any tax sale proceedings where it is suspected that a property is environmentally contaminated.

Discretion

In order to ensure that all taxpayers are treated fairly and equitably, the Commissioner of Corporate Services or his/her designate, has the authority to exercise discretion in the application of this policy where unusual circumstances are apparent, provided such discretion is in accordance with all applicable legislation.

Reporting

The Supervisor, Collections will maintain the following monthly reports and provide them on a monthly basis to the Manager, Revenue and Taxation and to the Director, Revenue & Materiel Management:

REPORT	DESCRIPTION
Tax Sales Work in Progress and Summary	Lists all properties against which Tax Arrears Certificates have been registered, identifying the amount of arrears & redemption date of each and details of any Extension Agreements in place
Composition of Tax Receivables	Summarizes taxes billed and collected in the current year and outstanding Property Taxes from previous years, identifying the year to which the outstanding taxes pertain
Year over Year Comparison Of Tax Collections	Compares Property Taxes billed and collected in the current year and previous three years
Property Assessed Value Versus Taxes Overdue	Lists properties where Tax Arrears are greater than 40% of the current year's assessed value of the property
Tax Accounts With Arrears Greater Than \$150,000	Lists properties where Tax Arrears are greater than \$150,000 and identifies collection steps taken
Bailiff Performance	Reports Bailiff success rate in collecting Tax Arrears

The Director, Revenue & Materiel Management, will provide the Commissioner, Corporate Services with these reports on a quarterly basis.

Revision History

Reference	Description
GC-0584-2010 - 2010 09 15	
April 23, 2019	Scheduled review. Revised to reflect current practices and legislation.