

<b>Policy:</b> Tax Collection Policy			
<b>Issued:</b> December 16, 2019	<b>Revised:</b> N/A	<b>Page:</b> 1 of 16	<b>Number:</b> FIN-19-72
<b>Related Policies</b>			

## PURPOSE / BACKGROUND

The purpose of this policy is to outline standardized processes that will ensure a transparent and efficient process for the billing and collection of property taxes.

## POLICY STATEMENT

The City of Oshawa (“the City”) collects property taxes from property owners on behalf of the City, the Region of Durham, the area school boards and the local Central Business Development Improvement Area (“C.B.D.I.A.”) The City is responsible to ensure effective collection of property taxes in accordance with the *Municipal Act, 2001*.

This policy is implemented in accordance with governing legislation and any incongruence between the policy and the governing legislation, the provisions of the governing legislation will prevail.

## SCOPE / APPLICATION

This policy establishes all aspects of the collection process and identifies the responsibilities for tax billing and collection in accordance with:

- City of Oshawa budgetary and policy requirements;
- City of Oshawa Customer Service Standards;
- City of Oshawa By-laws;
- *The Municipal Act, 2001*
- *The Municipal Affairs Act*
- *The Assessment Act*
- *The Education Act*
- *Farm Debt Mediation Act*
- Any new legislation pertaining to property tax collection.

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

## DEFINITIONS

**Bailiff** – duly appointed agent under contract with the City to recover outstanding property taxes.

**Bailiff Warrant** – states the amount of debt plus costs and property owners name and address. It is the document granting authority for a bailiff to act as an agent for the City in order to collect the debt.

**Cancellation Price** – is the amount equal to all the tax arrears owing at a given point in time in respect of land, together with all current real property taxes owing, including all penalties and interest and all reasonable costs incurred by the City after the registration of a tax arrears certificate under M.A. (S. 373).

**Collection Costs** – is the total costs incurred by the City to obtain further information for collection purposes in compliance with the regulations during the tax sale registration process. This includes, and is not limited to, title search fees, corporate search fees, registered mail, administrative charges, legal costs, registration fees, tax sale administration fees and the like.

**Due Date** – is the date that property tax bill (interim, final and supplementary) installments are due to be paid to the City.

**Extension Agreement** – is an agreement between the City and the ratepayer (or party of interest) to extend the period of time in which the cancellation price is to expire. This agreement freezes the tax sale registration (“T.S.R.”) process. An extension agreement outlines the details of the payment plan set in place to remit payments on the T.S.R. file in order to clear the balance owing. This type of agreement becomes void if one payment is missed, and the T.S.R. file continues from the point where the agreement was frozen in the tax sale process.

**Interest** – is the amount added to the unpaid levies from prior years in accordance with M.A. (S. 345).

**Municipal Property Assessment Corporation (“M.P.A.C.”)** – is responsible for accurately assessing and classifying properties in Ontario in compliance with the *Assessment Act* and regulations set by the Government of Ontario.

**Penalties** – are the amount added to the unpaid levies from current year in accordance with M.A. (S. 345).

**Property Taxes** – are the total amount of levies calculated for City, Region and School Board purposes and includes all amounts added to the tax roll as permitted by the *Municipal Act, 2001*. Property taxes are calculated based on the current value assessment (“C.V.A.”) determined by M.P.A.C. multiplied by the tax rate as determined by the City, Regional Council and the Minister of Finance in relation to education.

**Tax Arrears** – are the unpaid property taxes that remain unpaid after the due date has passed.

**Tax Arrears Certificate (“T.A.C.”)** – is the instrument registered at the land registry office on a parcel register. This document indicates that the described property will be

sold by public sale if all property taxes are not paid to the City within one year of the registration of this certificate.

**Tax Sale Registration (“T.S.R.”)** – is the process outlined in the *Municipal Act, 2001, Part XI – Sale of Land for Tax Arrears* where the City follows a legislated process for dealing with the sale of land for tax arrears.

**RESPONSIBILITIES**

The Commissioner, Finance Services, Director of Finance Services, Manager of Taxation Services and Taxation Services staff are responsible to ensure that the property tax collection processes outlined in this policy are adhered to as well as all its applicable legislation.

The Manager of Taxation Services is responsible for:

- Ensuring this policy remains in compliance with legislation;
- Ensuring City staff are in compliance with this policy;
- Assessing overdue property tax accounts regularly to ensure tax collection processes are performed in accordance with this policy;
- Ensuring, where appropriate, that the Current Value Assessment as determined by MPAC is correct.

The property owner is responsible for:

- Ensuring the current value assessment as determined by M.P.A.C. is correct
- Ensuring the mailing address is correct
- Ensuring the levies are paid by the due dates
- Ensuring the assessment roll content is correct with M.P.A.C.

**PRACTICE / PROCEDURES**

**Billing**

Property taxes will be billed by interim and final tax billings as established by the City by-law annually and in accordance with the *Municipal Act*, as amended.

Property tax bills are mailed to the address of the property tax account as shown on the tax roll unless the ratepayer has submitted a written request to the City requesting an alternate address. Tax bills may be sent to the ratepayer electronically in the manner specified by the City if the ratepayer has chosen to receive the tax bill in this manner. M.A. (S.343)

Bills are sent by standard letter mail and are considered delivered to and received by the addressee unless the mailing is returned to sender by Canada Post. It is the ratepayer’s responsibility to ensure the mailing address is correct on their tax account. Failure to notify the City of an address change in writing is not an error on behalf of the City.

## Mail Cycle

January	Interim Billing Final Notice prior to T.S.R.
February	1 <sup>st</sup> Installment Due
March	Reminder Notice
April	2 <sup>nd</sup> Installment Due
May	Final Billing Reminder Notice
June	3 <sup>rd</sup> Installment Due (Residential)
July	3 <sup>rd</sup> Installment Due (Non-Residential)
August	Reminder Notice
September	4 <sup>th</sup> Installment Due
October	Reminder Notice
November	Reminder Notice
December	T.S.R. Risk Notice

\*Supplementary & Omitted tax bills will be mailed according to the M.P.A.C. submission schedule

### Tax Bill Format – M.A. (S.344)

The Municipal tax billing will meet all requirements of the provincially legislated standard tax bill. Arrears are included in the first installment due date amount. Installment due dates will be indicated on the payment stubs. Billing messages may be used to relay information to ratepayers (i.e.: penalty and interest charge rates).

Installments will also be established by City by-law with two (2) installments for interim billing and two (2) installments for final billing.

### Interim Billing - M.A. (S.316)

Interim billing is based on 50% of the annualized taxes of the property for the previous calendar year. This does not include local improvement or special charges levied. If taxes levied on a property were for only part of the previous year because of assessment changes, an amount shall be added to the levies equal to the additional taxes that would have been levied on the property if the taxes had been levied for the entire year.

### Final Billing – M.A. (S.343)

Final billing is based on phased-in assessment value for the current year as provided by the M.P.A.C., the tax rate applicable, local improvement charges, and any special charges levied. Final tax bills are produced subsequent to the passing of the annual municipal budget and are based on the rates established by the by-law to meet the budget requirements of the Municipality, the Region of Durham, and the Minister of Finance in relation to education.

**Supplementary & Omitted Assessment Billing – M.A. (S. 341)**

Supplementary tax bills are issued and mailed in the same manner as interim and final tax bills with the exception that it is a separate levy where a by-law is not required. The number of installments and due dates of the supplementary bills will be determined by the Manager of Taxation Services. Penalties and interest charges will be assessed on supplementary taxes that are owing past their due date, consistent with other City due dates.

There are two sections of the *Assessment Act* that allow for taxation of taxable property not included in the annual revised assessment roll. These deal with omissions and additions to the tax roll.

- Section 33 of the *Assessment Act* allows for the taxation of real property that has been omitted from the return roll. The provision allows for taxation in the current year, plus a maximum of the two preceding years.
- Section 34 of the *Assessment Act* allows for the taxation of assessment that has increased in value or has been added after the return of the last revised assessment roll. These taxes apply to the current year only.

**Delivery of Tax Bills – M.A. (S. 343)**

Property tax bills and notices are mailed to the address of the property as shown on the tax roll unless the ratepayer advises the City, in writing, an alternate mailing address. Use of the alternate mailing address continues until it is revoked in writing or ownership of the property changes.

Any bill or notice sent by standard letter mail are considered delivered to and received by the addressee unless Canada Post returns the notice to sender and an error in the mailing address is evident. Ratepayers are responsible to notify the City of any changes to a mailing address(s). Failure to notify the City of an address change in writing is not an error on behalf of the City.

Legislative requirements surrounding tax billing assist with the processing of the tax collections. Despite all efforts made, if an error or omission in the form or substance of a tax bill occurs, it does not invalidate any proceedings for the recovery of taxes.

**Important Dates**

Due dates for the payment of property taxes are determined in relation to the approval of the budget by Council and the passing of the levying by-law.

Pending fluctuations as a results of the budget approval process or other unforeseeable delays, tax billing due dates will normally be as follows:

- Interim bill: the last week in February / the last week in April – as determined by the annual Interim Billing By-Law

- Final bill: the last week in June for residential / the last week in July for non-residential / the last week in September – as determined by the annual Final Billing By-Law

The Municipality may have a minimum bill in the event that the amount owing is twenty-five dollars (\$25) or less on a tax bill. In this case, the taxpayer shall pay the full amount in one installment on the specified due date, being the first installment date. The second installment date will not apply.

### **Ownership Changes – A.A. (S. 17(1))**

The Provincial Land Registry System is the service for the legal determinant of the ownership of land. The names of the owners on the property tax account are to agree with the ownership registered at the Land Registry Office on the parcel register. The City requires the instrument (deed / transfer of land) registered at the Land Registry Office be submitted to Taxation Services for processing. This includes removing a name from ownership, changing a name on title or adding a name to ownership for all tax accounts.

Letters submitted by a law office do not contain all the pertinent information required for ownership changes to be processed. The property owner is responsible to ensure that their tax account has the correct mailing address.

### **Severances / Consolidations – M.A. (S. 356)**

Property owners may apply for severances of their properties under the authority of *The Planning Act*. If granted by the City of Oshawa Planning Department, the assessment values must be split between all the parcels of land. As part of their legislated services, M.P.A.C. divides the assessment information.

Under the authority of *The Municipal Act* (S. 356), the Treasurer may divide the assessment roll into the parcels being severed and direct the property taxes accordingly.

As severed portions of the land are often sold, the Municipality will not recalculate the property taxes for a part year. It is understood that the seller's and purchaser's lawyers would allocate the levies accordingly during the sale process. The allocation of levies will be shown on the "statement of adjustments" provided to the property owners by the law office completing the title transfer.

Consolidations are processed by M.P.A.C. at the written request of the property owner. Property owners should contact M.P.A.C. directly.

A severance or consolidation of a parcel identification number at Land Registry Office does not constitute a consolidation or severance of a tax roll.

## Payments

Payment methods include electronic fund transfers (“E.F.T.”), telephone banking, pre-authorized payment plans, mortgage companies (on behalf of a ratepayer), cash, debit card, cheques, post-dated cheques, at financial institutions and at Service Oshawa located at City Hall.

City of Oshawa, 50 Centre Street South, Oshawa, ON L1H 3Z7.

A payment is considered made once the funds have been received or receipted by the City. Online payments normally require three to five business days to process and ratepayers are responsible for allowing their financial institution processing time to submit the payment to the City. Ratepayers are responsible for any fees and charges that may be imposed when making payments.

Post-dated cheques will be accepted and held by Service Oshawa and/or Finance Services until the date indicated on the cheque. Should the payer request that the post-dated cheque not be processed, the City is to be contacted in writing at least ten(10) business days prior to the date indicated on the cheque. As per the General Fees and Charges By-Law, there is an administrative fee involved in removing the post-dated cheque from being processed.

### Pre-Authorized Payment Plans

The City offers four (4) pre-authorized payment plans (“P.A.P.”)

1. Installment due dates (Interim, Final non-capped billing & Final capped billing);
2. Monthly – 1<sup>st</sup> or 15<sup>th</sup> of each month; or
3. Semi-monthly – 1<sup>st</sup> and 15<sup>th</sup> of each month; or
4. Arrears – using monthly or semi-monthly dates (ratepayers are to review their arrears by Dec 30<sup>th</sup> yearly for re-evaluation of payment amount).

All payment plan applications must be received ten (10) business days prior to the first withdrawal requested. All changes to pre-authorized payment plan applications must be submitted in writing ten (10) business days prior to the effective change. Cancellation of pre-authorized payment plans must be received in writing ten (10) business days prior to the end date.

Any P.A.P. dishonored payment is treated in the same manner as other forms of payment, with the same administration fees involved. The financial institution will charge their dishonored payment fee for the failed attempt. This first dishonored payment is given a second attempt to withdraw the funds by the bank within five (5) to seven (7) business days. If this second attempt at payment is rejected once again, it is treated as a dishonored payment. The financial institution will charge their dishonored payment fee once again for the second failed attempt. The next scheduled pre-authorized withdrawal is doubled and the administration fee as per the General Fees

and Charges By-Law is added for the next scheduled withdrawal. For the semi-monthly payment plan, the withdrawal will be doubled for the next month and include the administration fee. For the due date plan, the withdrawal will be taken on the 1st of the month after 30 day period and include the administration fee as per the General Fees and Charges By-Law.

When a second scheduled payment attempt is dishonored the pre-authorized payment program will be terminated and the property owner will not be permitted to re-enter into a pre-authorized payment plan agreement for a minimum of two (2) years. An exception to this termination of access to the plan would be if the account was paid up to date within 6 months from the date of the initial dishonored date.

The P.A.P. program follows the Canadian Payments Association Rule H1 regulations. Available online at <https://www.payments.ca/sites/default/files/h1eng.updated.pdf> .

### **Dishonored Payments**

Payments that are rejected and/or returned by any financial institution will be charged an administration fee as per the General Fees and Charges By-Law. After two (2) returned payments, cheques or pre-authorized payments will no longer be available to the property owner for a minimum of two (2) years. Cash, certified cheques and/or money orders will be accepted. An exception to this termination of access to the plan would be if the account was paid up to date within 6 months from the date of the initial dishonored date.

### **Receipts / Proof of payment**

Reproduction of documents supporting payments and levy amounts will be charged an administration fee as per the General Fees and Charges By-Law.

In the year of purchase/sale of a property, the City does not provide documentation since the law office completes the property tax allocation on the owners behalf. The City is not involved in the allocation and is not privy to the details of the transfer. The property owner should use the statement of adjustments as provided by the law office retained for the purchase/sale of the property.

### **Application of Payments– M.A. (S. 347)**

Property tax payments are applied in accordance with legislation. 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. 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.

Once a tax arrears certificate (“T.A.C.”) has been registered on title against a property, partial payments are not accepted unless the property owner and the City has entered



into an extension agreement. If there is no extension agreement in place, a partial payment received on a tax account with a T.A.C. registered will be returned or refunded as appropriate.

### **Refunds/Overpayments**

Tax account refund requests must be submitted in writing and be accompanied with the proof of payment, letter of indemnity and statement of adjustment, where applicable. Refunds are reviewed by tax staff and approved by the Manager of Taxation Services, if all the eligibility criteria have been met. Tax accounts with a balance owing will not be eligible for refunds.

All levy adjustments and tax rebates processed during the year will be applied to outstanding levies. A refund may be requested in writing on property tax accounts with credit balances only.

### **Misapplied Payments**

Erroneous payments made to a tax account require a written request to correct the payment application. These corrections are subject to an administrative fee in accordance with the General Fees and Charges By-Law.

### **Late Payment Charges / Collection Costs – M.A. (S. 345)**

Tax arrears are subject to late payment charges, the current year is imposed penalties, while the previous years are imposed interest. A penalty is imposed on the unpaid levies the first business day of each month the levies remain unpaid. In addition, as long as the property taxes remain unpaid, interest will be added on the first business day each month thereafter. Penalty and interest charges cannot be waived, except where a City error has occurred.

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. Bailiff fees are charged and collected by the bailiff directly, where possible.

### **Transfer to Taxes – M.A. (S. 398)**

Property owner accounts with other departments throughout the City, as well as the Region of Durham, having an overdue balance will have their balance transferred to their tax account and collected in the same manner as taxes. As per the General Fees and Charges By-Law, there is an administrative fee involved in transferring other City and Region of Durham receivables on the tax accounts. Once these amounts are transferred to the property tax accounts, they are treated as property taxes for collection purposes.

## TAX ARREARS COLLECTION

Property 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
- Reminder Notices / Arrears Notices
- Notice of Intent to Realize on Security (also known as Farm Debt Mediation Notice)
- Final Notice before Tax Sale Registration
- Payment arrangements
- Issue notices to interested parties
- Bailiff services
- Legal action, and
- Tax Sale Registration process

Differing collection processes have been established by these property types:

- **Collection Steps - Residential** – properties that are assessed in the residential or farm property classes
- **Collection Steps - Non-Residential** – properties with any portion of assessment in the commercial, industrial or multi-residential property class
- **Collection Steps - Crown Tenants** – properties owned by the Crown and leased to a taxable tenant; in accordance with section 18 of the *Assessment Act, R.S.O. 1990, c.A.31*, the property is assessed as though the tenant were the owner.

### Collection Steps – All Property Types

**Arrears Notice** – In January each year, in accordance with legislation, a notice is sent to all property owners who owed taxes as of December 31<sup>st</sup> of the preceding year.

**Reminder Notice** – Reminder notices are mailed to all property owners with an overdue amount that is within the determined threshold amount used during that tax year. The reminder notice threshold is \$199.99 for reminder notices generated up to October, where this amount may be decreased to a minimum of \$10.00.

**Payment Arrangements** – 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. Late payment charges will continue to accrue during all such payment arrangements until full payment on the account, unless a P.A.P. plan is active on the account.

Authorization for extending payment terms is as follows:

STAFF LEVEL	MAXIMUM NEGOTIABLE PAYMENT ARRANGEMENT TERM		
	Residential	Non-Residential	Crown Tenant
Manager	>24 months	>24 months	>24 months
Coordinator	18 months	18 months	15 months
Tax Staff	12 months	12 months	9 months

Notwithstanding any such arrangements, third party payments will be accepted for payment on account (e.g. payment from a mortgage company).

If acceptable payment arrangements are negotiated, the account is monitored for compliance. Follow-up with the ratepayer is performed as required.

Once a payment arrangement has been approved and accepted, if a payments is returned the payment arrangement is deemed void. The ratepayer is advised that the payment is required in full either by cash, certified cheque or money order, or the next step in the collection process will be taken.

### **Collection Steps – Residential Properties**

In addition to issuing arrears notices and reminder notices each year, the following actions will be taken once a residential property owner is two (2) years in arrears:

**Notice of Intent to Realize on Security** – A secured creditor, under section 21 of the *Farm Debt Mediation Act*, requires Municipalities to serve a farmer with a Notice of Intent to Realize on Security before taking legal action to recover debts. The Notice of Intent to Realize on Security is deemed to be effected after a fifteen (15) day waiting period. The farmer may choose to apply to the Farm Debt Mediation Service during this period or any time afterwards. The City is obliged to send the Notice of Intent to Realize on Security in the event that the property owner may own or operate land that is farmed anywhere in Canada. Through the Farm Debt Mediation Service, a property owner may have the right to apply for a stay of proceedings, during which time creditors may not begin or continue recovery or seizure action against the property owner’s assets.

**Final Notice Prior to Tax Sale Registration** – These notices are mailed to those residential property owners approaching two years of property tax arrears. This notice urges property owners to take action within thirty (30) days, by either making full payment of the taxes or negotiate suitable payment arrangements with the City.

**Notice to Interested Parties** – If a property owner fails to respond to the Final Notice Prior to Tax Sale Registration, a property title search is carried out by the City in order to identify all parties with a financial interest in the property. The Notice to Interested Parties advises the interested parties of the tax arrears outstanding and that the City intends to proceed with a municipal tax sale. The interested parties have an opportunity to pay the arrears in order to protect their interest in the property.

**Tax Arrears Certificate Registration** – Municipal tax sale proceedings can begin once taxes have been in arrears for at least two (2) years. Once all other collection efforts

have been exhausted, no payment agreements have been negotiated, and the City still has been unable to secure payment of the tax arrears, the City will start the tax sale registration process by registering the Tax Arrears Certificate on the parcel register at the Land Registry Office.

If full payment is not received within two hundred and eighty (280) days of the Tax Arrears Certificate registration, the City issues a final notice to the property owner(s) and all interested parties within thirty (30) days after the expiry of the two hundred and eighty (280) day period. This final notice specifies the date on which the property will be advertised for public tender if the tax arrears remain unpaid or an extension agreement is not negotiated.

Once a Tax Arrears Certificate has been registered, only full payment of the cancellation price will be accepted unless an extension agreement has been negotiated. Full payment will be accepted up to the date of transfer of the property following a sale. In the event of non-payment, the City will proceed with a municipal tax sale.

### **Collection Steps – Non-Residential Properties**

In addition to issuing Arrears Notices and Reminder Notices, once a non-residential property owner's current year's taxes are in arrears the following actions will be taken:

**Final Notice before Bailiff** – Following the last tax instalment date of the year, a Final Notice before Bailiff may be mailed to every non-residential property owner with an outstanding balance greater than the reminder notice threshold, advising the property owner that they have thirty (30) days to pay their taxes or enter into a suitable payment arrangement with the City. Otherwise, their account will be issued to a bailiff for collection. The costs of the bailiff services are borne by the property owner.

**Bailiff Action** – Accounts that fail to respond to the Final Notice before Bailiff, and have tax arrears greater than the reminder notice threshold, are issued to the bailiff for collection. Once a 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 property 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 two (2) 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. The identified parties are then notified of the tax arrears. The Notice to Interested Parties advises the interested parties of the tax arrears outstanding and that the City intends to proceed with a municipal tax sale. The interested parties have an opportunity to pay the arrears in order to protect their interest in the property.

**Final Notice prior to Tax Sale Registration** – These notices are mailed to those non-residential property owners approaching two (2) years of property tax arrears. This notice urges property owners to take action within thirty (30) days by either making full payment of the taxes or enter into suitable payment arrangements with the City.

**Tax Arrears Certificate Registration** – Municipal tax sale proceedings can begin once taxes have been in arrears for at least two (2) years. Once all other collection efforts have been exhausted, no payment agreements have been negotiated, and the City still has been unable to secure payment of the tax arrears, the City will start the tax sale registration process by registering the Tax Arrears Certificate on the parcel register at the Land Registry Office.

If full payment is not received within two hundred and eighty (280) days of the Tax Arrears Certificate registration, the City issues a Final Notice to the property owner(s) and all interested parties within thirty (30) days after the expiry of the two hundred and eighty (280) day period. This final notice specifies the date on which the property will be advertised for public tender if the tax arrears remain unpaid or an extension agreement is not negotiated. If the City does not receive a response, the account will be sent to the bailiff to perform a site visit and advise the property owner, mortgage company, lawyer or interested parties of the pending sale of the property and attempt collection.

Once a Tax Arrears Certificate has been registered, only full payment of the cancellation price will be accepted unless an extension agreement has been negotiated.

Full payment will be accepted up to the date of transfer of the property following a sale. 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 were the owner and the tenant is then responsible for the payment of property taxes. The municipal tax sale provisions of the M.A. do not apply to Crown property.

In addition to issuing the arrears notice, once a Crown tenant’s current year’s taxes are in arrears the following action will be taken:

**Final Notice before Bailiff** – Following the last tax instalment date of the year, a Final Notice before Bailiff is mailed to every property owner with an outstanding balance greater than the reminder notice threshold, advising the property owner that they have thirty (30) days to pay their taxes or enter into a suitable payment arrangement with the City. Otherwise, their account will be issued to a bailiff for collection. The costs of the bailiff services are borne by the property owner.

**Bailiff Action** – If a property owner or Crown tenant fails to respond to the Final Notice before Bailiff, the City issues a Bailiff Warrant to the bailiff to collect the outstanding taxes. Once a Bailiff Warrant is issued, the property owner or Crown tenant makes payment on the outstanding amount directly to the bailiff.

Bailiff tax recovery actions include:

- Serving a Warrant to Distrain for Taxes (“Warrant”) to the assessed property 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.

**Legal Action** – If the bailiff is unable to collect the overdue amount or secure a payment arrangement within three (3) months of the assignment date, the account is

returned to the City. Legal action may then be commenced by Legal Services 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 AND WRITE OFFS**

### **Cancellation of Late Payment Charges, Penalties and Interest**

Late payment charges are cancelled only in the following circumstances:

- Taxes are adjusted under M.A.,
  - S. 334 – Application for Cancellation,
  - S. 354 – Write-off of taxes,
  - S. 357 – Cancellation, reduction, refund of taxes, and
  - S. 358 – Overcharges.
- 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 the tax adjustment. This includes processing time once adjustment information is received by the City, gross manifest errors or omissions by the City.

### **Minimum Balance write off**

A balance owing of less than \$2.00 on an account after payments are received for the year will automatically be written off on December 1<sup>st</sup> each year, as it is uneconomical for the City to pursue collection of these amounts.

### **Commissioner, Finance Services Write Off**

In accordance with section 354 of the *Municipal Act*, Council may approve uncollectible taxes for write-off, on the recommendation of the Commissioner, Finance Services.

## **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 that it is assumed property taxes will be paid once the property is sold.

### **Discretion**

In order to ensure that all taxpayers are treated fairly and equitably, the Commissioner, Finance 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

Taxation Services will maintain the following reports and provide them to the Manager of Taxation Services on a monthly basis, to the Director of Finance Services (or their designate) on a quarterly basis and to the Commissioner of Finance Services (or their designate) on a semi-annual basis.

REPORT	DESCRIPTION
Accounts in Arrears – Tax Sale Registration Report	Lists all properties against which a Tax Arrears Certificate have been registered, identifying the amount of arrears and redemption date of each and details of any Extension Agreements in place
Age Analysis Report	Lists all properties with a balance owing broken down by levy year, penalties and interest.
Tax Accounts in Arrears >\$25,000 Report	Lists all properties where balance owing is greater than \$25,000

## REFERENCES

City of Oshawa – Property Tax website  
<https://www.oshawa.ca/residents/property-taxes.asp>

Municipal Property Assessment Corporation website  
<https://www.mpac.ca/>

Municipal Act  
<https://www.ontario.ca/laws/statute/01m25>

Assessment Act  
<https://www.ontario.ca/laws/statute/90a31>

Farm Debt Mediation Act  
<http://laws-lois.justice.gc.ca/eng/regulations/SOR-98-168/page-1.html>

Ministry of Municipal Affaires and Housing  
<http://www.mah.gov.on.ca/Page10240.aspx>

## APPROVED

<b>Authority</b> City of Oshawa Council	<b>Date</b> December 16, 2019	<b>Signature</b> Council Approved
--	----------------------------------	--------------------------------------