

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT

BY-LAW No. 2017-046

BEING a by-law to adopt a Billing and Collection Policy for the Township of South Stormont.

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WHEREAS the *Municipal Act, 2001*, c. 25 s. 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS the *Municipal Act, 2001*, c. 25 s. 5 (3) provides that the powers of every council are to be exercised by by-law;

AND WHEREAS Council adopted policies for Billing and Collection of Property Taxes in the Township on November 22, 2006 and again on October 10, 2012;

AND WHEREAS Council of the Township of South Stormont deems it advisable to adopt a revised and current Billing and Collection Policy as a basis for decision making relating to tax collection procedures in the Township.


NOW THEREFORE Council of the Corporation of the Township of South Stormont enacts as follows:

1. That the Billing and Collection Policy, attached hereto as Schedule "A", be adopted effective June 14, 2017.
2. Any other by-laws inconsistent with this by-law are hereby repealed.

READ AND PASSED in open Council, signed and sealed this 14<sup>th</sup> day of June, 2017.

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Mayor

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Clerk

	<b>Billing and Collection Policy</b>	<b>Schedule "A"</b> <b>By-law No. 2017-046</b>
	<b>Section : Finance Department</b>	
	<b>Subject: Billing and Collection</b>	Date of Origin: November 22, 2006 Revised: October 10, 2012 June 14, 2017

## **SCOPE:**

This document is to provide guidance to staff and to provide a basis for decision-making relating to tax collection procedures for all property owners within the Township of South Stormont.

## **POLICY, PROCEDURES AND IMPLEMENTATION:**

### **1.0 Purpose**

**1.1** The guidelines contained in this policy serve to supplement the provincial legislation that governs this area, especially for situations where a choice is provided, allowing for Council's/Treasurer's discretion, and for issues when the legislation is silent. Legislation should be reviewed within the context of this policy; the *Municipal Act, S.O. 2001*, in particular, Parts VIII – Municipal Taxation, IX – Limitation on Taxes For Certain Property Classes, X – Tax Collection and XI – Sale of Land for Tax Arrears.

### **2.0 Definitions**

**2.1** "Third party cheque" is defined as a cheque payable to another party other than the Township of South Stormont.

**2.2** "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.

### **3.0 Billing**

**3.1** A levying by-law passed by Council is required in advance of either an interim or final tax billing.

**3.2** Interim tax billings will be based on 50% of the previous year's annualized taxes. The interim tax billing will not include local

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improvements or special charges; service area rates will be included in this calculation.

The interim tax billing will clearly identify the municipality, property and owner(s), the payment due date, the annualized assessment for the previous calendar year, the percentage used to calculate the interim taxes, and any arrears owing against the property.

- 3.3** Final tax billings are produced subsequent to the passing of the annual municipal budget and are based on the rates established by by-law from the budget requirements of the Township, the United Counties of Stormont Dundas and Glengarry and the Minister of Finance in relation to education. The final property tax billing will be calculated based on the phased-in assessed value for the current year as provided by the Municipal Property Assessment Corporation (MPAC), the appropriate tax rate, all local improvement charges, service area rates, and any special charges levied.

The final tax billing will clearly identify the municipality, property and owner(s), the payment due date(s) and any arrears owing against the property.

- 3.4** Supplementary billings will be processed upon receipt of updated information from MPAC. Supplementary billings will not be processed until the completion of the final tax billing. The calculation of any supplementary billing(s) is based on the tax rate established by by-law for the time period in which the billing represents for the Township, the Counties and the Minister of Finance.

- 3.5** As required by the *Municipal Act*, tax billings must be post-marked and mailed no later than twenty-one (21) calendar days prior to the date of the first installment due date; however, when possible, a 30-day notice will be provided.

- 3.6** Arrears are included in the first installment due date only. Installment due dates and the amounts due will be indicated on the payment stubs. Additional information regarding billing and payment methods may be on the face or reverse side of the tax bill.

**4.0 Due Dates**

- 4.1** Due dates for the payment of property taxes shall be dependent, in the case of the final bill, on the final approval of the budget by Council and the subsequent passing of the levying by-law. Notwithstanding fluctuations as a result of the budget approval or other unforeseeable delays, tax billings due dates will normally be as follows:

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- Interim Bill: The last business day of March
- Final Bill: The last business day of June and September

**4.2** The specific due dates will be identified on the Interim and Final Levy By-Laws for the Township.

**4.3** Supplementary tax billings will have two (2) installments dates; the first at least thirty (30) days after processing and the second due at least ninety (90) days after processing. Installment due dates and the amounts will be indicated on the payment stubs.

**5.0 Settlement of Accounts**

**5.1** Payments will be in the form of cash, cheques, money orders, bank drafts, debits, preauthorized payments, internet/telephone banking. Cheques which are post-dated will be accepted and held by the Finance Department until the date indicated on the cheque. Payments of property taxes will be accepted at most major financial institutions, the Township of South Stormont Municipal Office, or via mail to:

Township of South Stormont  
2 Mille Roches Road  
P.O. Box 84  
Long Sault ON K0C 1P0

Taxpayers are responsible for any fees and charges that may be imposed on payments.

**5.2** Taxpayers whose property tax account is not in arrears may pay current taxes through ten (10) monthly pre-authorized electronic file transfers (EFT's) from January through October. Properties enrolled in this option are not subject to service and/or interest charges.

**5.3** Taxpayers whose property tax account is not in arrears may pay current taxes through pre-authorized EFT's on the due date. Properties enrolled in this option are not subject to any service and/or interest charges.

**5.4** Taxpayers whose property tax account is in arrears may pay taxes through twelve (12) monthly pre-authorized EFT's in the amount directed by the property owners. Properties enrolled in this option are subject to penalty charges.

**5.5** Township staff may review from time to time other pre-authorized electronic payment plan options.

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- 5.6** Third party cheques will not be accepted unless the cheque has been issued from another government agency.
- 5.7** Credit balances resulting from an overpayment will be applied to installments not yet due. However, upon request, a refund cheque will be issued after sufficient time has passed for the payer's cheque to have cleared their financial institution.
- 5.8** After two (2) cheques within any twelve (12) month period are returned, personal cheques from the taxpayer, for any financial transaction within the municipality, may not be accepted unless certified. This restriction will be in effect for a period of one (1) year. If there is a recurrence of two (2) returned cheques within a twelve (12) month period, cheques will no longer be accepted from the property owner, indefinitely, unless they are certified.
- 5.9** If two (2) pre-authorized payments within any twelve (12) month period are returned on a taxpayer's account, enrollment in the pre-authorized payment plan will be terminated. The property owner may re-apply after a period of one (1) year. If there is a recurrence, of two (2) returned pre-authorized payments, enrollment in the pre-authorized payment plan will be terminated indefinitely.
- 5.10** Should payment of a tax account be tendered in U.S. funds, or other foreign currency, it will be accepted by the Township at the exchange rate established by the financial institution holding the accounts of the Township on that day.
- 5.11** Where post-dated cheques are submitted to the township and the payer requests that the cheque not be processed, the township should be contacted at least three (3) business days prior to the date of the cheque. If proper advance notice is not received, staff will attempt to retrieve the payment before it is processed and return same to the payer. However, in circumstances where retrieval of the payment is not completed prior to the deposit being forwarded to the financial institution, the payer will be encouraged to issue a stop payment on their cheque.

**6.0 Collection – Payment Incentives**

- 6.1** There are five basic incentives set out by legislation to promote timely payment of taxes as follows:
- Late Payment Charges
  - Bailiff Action
  - Collection Agency

- Attornment of Rent
- Tax Registration/Tax Sale

**6.2** Late Payment Charges

The purpose of late payment charges is to encourage ratepayers to pay on time. The rate at which penalty and interest is charged is set by by-law and the *Municipal Act*, Section 345. This rate may be reviewed by the township each year, but cannot exceed the maximum percentage stated in the *Municipal Act*. Currently the percentage cannot exceed 1¼ percent per month.

**6.3** Bailiff Action

Section 349 of the *Municipal Act*, provides that property taxes may be recovered, with costs, as a debt due to the township for the taxpayer originally assessed and from any subsequent owner of the assessed property or any part of it.

The township may issue a warrant to collect property taxes if the property taxes remain unpaid for a period of fourteen days or more after the installment due date. Further information regarding Bailiff Action is provided within this policy.

**6.4** Collection Agency

Section 304 of the *Municipal Act* provides that if a municipality uses a collection agency to recover a debt under the *Collection Agency Act*, including taxes, the collection agency may recover its costs as long as the costs do not exceed the amount approved by the municipality. Further information regarding Collection Agency is provided within this policy.

**6.5** Attornment of Rent

Under Section 350 of the *Municipal Act*, the township may seize the rents of an income producing property upon giving proper notice. It is a severe action and should only be initiated after adequate notice. Further information regarding Attornment of Rent is provided within this policy.

**6.6** Tax Registration/Tax Sale

In accordance with the *Municipal Act*, properties that are in arrears for two (2) years or more are eligible for tax registration. The property owner or interested party has one year from the date of registration to redeem the property for all taxes, interest and penalty outstanding, including any associated costs. The Township solicitor or a contracted tax registration firm may be used to process the required statutory notices/declarations.

Prior to the registration of a Tax Arrears Certificate, property owners with tax arrears are encouraged to enter into payment arrangements with the Township for up to a maximum of twenty-four (24) months or another mutually agreeable term. Payment arrangements must include all tax arrears, current taxes, accruing estimates of future taxes, interest/penalty and be sufficient to ensure payment in full is realized by the end of the agreement term.

A default of the payment arrangement may result in the registration of a Tax Arrears Certificate on title.

**6.1** Administration fees associated with any collection process are in addition to the charges by the third party firm completing the required statutory notices/declarations and shall be defined in the Township Fees and Charges By-law.

**6.2** Additional Collection Tools

The following additional tools are available to assist in the collection of realty taxes:

- Reminder notices
- Personalized letters
- Telephone follow-up
- Interviews
- Title Searches – Interested Party Notification

**7.0 Steps of Collection Procedure**

**7.1** Any tax arrears at the time of either the interim or final tax billing are included in the tax notice.

**7.2** Reminder notices are to be mailed periodically and after each installment due date. Notices shall be mailed no later than the 15<sup>th</sup> day of the month. Reminder notices for \$5.00 or less are not to be processed. Based on the assumption that interim taxes are due the last business day of March and final taxes are due the last business day of June and September, staff are encouraged to issue reminder notices by the 15<sup>th</sup> of the following months.

- January and/or February
- April
- July
- October

**7.3** Any notices mailed are considered delivered to and received by the addressee unless an error in the mailing address is proven. Failure to notify the municipality of an address change in writing does not constitute an error. Section 343 of the *Municipal Act* states that tax bills

shall be sent to the taxpayer's residence or place of business or to the premises where the taxes are payable for, unless the taxpayer directs the municipality otherwise. The direction for the delivery of tax bills continues until it is revoked in writing by the property owner or their representative.

- 7.4** Priority of tax accounts for collection is:
- (i) two (2) or more previous years outstanding
  - (ii) one (1) previous year outstanding
  - (iii) current year outstanding
- 7.5** In addition to the overdue notices sent in accordance with 8.2 above, in the fourth quarter of each year, letters will be sent to property owners whose accounts are nearing two years in arrears. These letters will advise of the minimum payment required to pay off the second year in full or, alternatively, the minimum monthly payment required to defer the tax registration process. These payments and/or payment arrangements are due by December 31<sup>st</sup> of the current year. To ensure the tax arrears are paid within 24 months, the minimum payment required is calculated as follows:
- The total outstanding balance, plus the estimated proceeding year's taxes, divided by 24.
- 7.6** Satisfactory payment arrangements could be;
- a series of post-dated cheques
  - a commitment to make payments on prearranged dates via preauthorized electronic payments, telephone/internet banking or in person.
- 7.7** If no reply is received from item 7.5 above, historically, it is unlikely a second or third notice would bring about different results. Therefore, these accounts will be forwarded to the Township Solicitor who will issue a Notice of Intent by Secured Creditor which outlines the total amount of taxes outstanding.
- 7.8** If no reply is received as a result of Item 7.6 above, the Township Solicitor will be instructed to proceed with the process of registration of a tax arrears certificate and eventually tax sale of the property as per the provisions of the *Municipal Act*, Part XI.
- 7.9** If a response is received as a result of Item 8.7 above and payments and/or payments plans are deemed acceptable, the Finance Department will monitor these accounts on a regular basis.



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Costs associated with the preparation and mailing of the final notice will be added to the property tax account.

- 7.10** If rent attornment is chosen as a collection tool, the Treasurer will give written notice by registered mail to the tenant requiring the tenant to pay the rent, normally paid to the landlord, to the Township of South Stormont as it becomes due, until the amount of taxes due and any unpaid costs are paid in full. This option may be utilized at the discretion of the Treasurer. The tenant is required under section 350(1) of the *Municipal Act* to comply with this notice.
- 7.11** The Treasurer has the same authority as the landlord of the premises to collect the rent by seizure or otherwise to the amount of the taxes due and unpaid cost; but by collecting the rent the Township does not assume the responsibilities of the landlord.
- 7.12** Amounts paid as a result of rent attornment, may be deducted by the tenant from the rent paid to the landlord.
- 7.13** If the collection procedures as directed by the Treasurer do not achieve acceptable results of tax collection, the Township may proceed with registering a tax arrears certificate on the property. At that time, the provisions of the *Municipal Act* in relation to the tax sale process will be adhered to.
- 7.14** If an application is made to divide land that is assessed as one block into two or more parcels, and if each parcel can be legally conveyed under the Planning Act, the application shall not proceed unless the tax account is current.
- 7.15** All costs incurred for collection to obtain information and/or collect tax arrears are payable by the property owner and added to the tax account, Section 349(1) of the *Municipal Act*. These costs may include, but are not limited to:
- All title search fees,
  - All corporate search fees,
  - Registered mail,
  - Administration charges, and
  - All site visits.
- 7.16** Other collection methods may be utilized as outlined in the *Municipal Act*, 2001.
- 8.0 Minimum Balance Write-off**

**8.1** In some circumstances there remains a balance owing on a ratepayer's account after a payment is received. This is often as a result of interest being added to the account after a payment amount was verified and the cheque received shortly thereafter. When the remaining amount is small enough that the additional costs of collection would not be deemed worthwhile, it may be expedient to write off this amount. The township authorizes the Treasurer to approve such write-offs for outstanding amounts less than \$50.00.

## **9.0 Late Payment Charge Adjustments**

**9.1** Late payment charges are adjusted only in the following circumstances:

- Taxes are adjusted under Sections 354, 357, or 358 of the *Municipal Act*,
- Taxes are adjusted following an Assessment Review Board Decision,
- Taxes are adjusted in accordance with a decision of the Courts, or
- The interest or penalties were charged as a result of the township's error or omission.