

THE CORPORATION OF THE TOWN OF SMITHS FALLS

BY-LAW NO. 10055-2019

BY-LAW TO AMEND BY-LAW 8873-2013 BEING A BY-LAW TO ADOPT A TAX
COLLECTION POLICY FOR THE TOWN OF SMITHS FALLS

WHEREAS Section 8 of the Municipal Act, SO 2001, as amended provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 9 of the Municipal Act, SO 2001, as amended provides that Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHERE the Municipal Act, 2001 is the governing legislation that sets out tax billing and collection processes and procedures;

AND WHEREAS this policy outlines the provisions respecting the Tax Billing and Collection Policy for the Town of Smiths Falls.

AND WHEREAS an amendment is required to delegate authority to the Clerk and Treasurer to enter into tax extension agreements.

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Smiths Falls enacts as follows:

1. THAT By-law 8873-2016 be hereby amended to allow the Mayor and Treasurer to enter into tax extension agreements.
2. THAT this by-law shall take effect on the date of its passing.

Read a first and second time this 24th of June, 2019

Read a third time and passed this 24th of June, 2019


Mayor


Clerk

TOWN OF SMITHS FALLS TAX BILLING AND COLLECTION POLICY

POLICY STATEMENT AND RATIONALE:

Council wishes to ensure prompt billing of the tax levy in order to meet the budgetary expenditures of the Corporation for the fiscal year.

Council wishes to ensure prompt, efficient, courteous and consistent service to all taxpayers of the municipality.

Council wishes to ensure that collection procedures are appropriate within the requirements of the legislation relative to tax collection, as non-payment of taxes may result in the Town incurring additional costs for borrowing, which in turn represents unnecessary expenditures for all taxpayers.

Therefore, Council has established this policy to ensure a consistent, effective and appropriate Tax Billing and Collection policy.

SCOPE:

This document is to provide guidance to staff and taxpayers to provide a basis for decision-making relating to Tax Billing and Tax Collection procedures for all taxpayers in the Town of Smiths Falls. The Tax Collector has the authority to determine the method of collecting arrears.

Tax Bills

Each year two (2) Tax Bills are mailed to the Owner of the Property as listed on our files. The first bill is the Interim Tax Bill, which is no greater than 50% of the prior year's annualized taxes. The second and Final Tax Bill represents any change in assessment or tax rate, and may include all local improvement charges, area charges, business improvement area charges, any special charges levied by the municipality or provincial government. The tax bill will fully comply with the Standardized Tax Bill form, as defined by legislation.

Arrears are included solely in the first installment due date amount. Installment due dates will be indicated on the payment stubs. Billing messages may be used on the face or reverse of the tax billing.

Due Dates

Bills are mailed no later than 21 calendar days before the initial due date for each billing. However, the municipality will endeavor to mail billings to give 28 calendar days before the initial due date for each billing.

Each billing is divided into two equal installments, which are due as follows:

Last business day of February and April for the Interim Billing, and the last business day of June and August for the Final Billing.

Payments

Payments may be made as per the following methods:

- In person at the Town Hall, by cash, cheque, debit
- At any chartered bank on or before the due date
- By internet banking through a financial institution
- Post-dated cheques
- Pre-Authorized plans offered by the Town
- Town Website www.smithsfalls.ca – online payments
- By mail to:
Town of Smiths Falls
77 Beckwith St N
SMITHS FALLS ON K7A 2B8

Property owners are advised to allow 3 – 5 business days for the payment to reach the Town, if not paying in person.

Post-dated cheques for tax installment due dates are processed in advance of their deposit date ensuring they can be deposited on the actual tax installment due date, making rebalancing of batches necessary if cheques are removed from the batches. Where post-dated cheques are submitted to the municipality for future payment, customers are required to put a stop payment on the cheque should they not wish the cheque to be processed as it was dated. Staff will attempt to retrieve the payment before it is processed and return it to the customer, but due to timing, it is in the best interest of the customer for a stop payment to be issued.

Third party cheques will not be accepted.

Any cheques and/or pre-authorized payments returned for any reason will be subject to a returned payment fee, which is set out in the Fees By-law.

Taxes are payable in Canadian funds only (CAD).

Collection – Payment Incentives

Taxes which are past due or in arrears are subject to collection. All costs related to collection of tax arrears will be added to the subject property. There are six basic incentives set out by legislation to promote timely payment of taxes, as follows:

- Penalty/Interest
- Collection Agency
- Attornment of Rent
- Bailiff
- Small Claims Court
- Tax Registration / Tax Sale

Penalty and Interest

The purpose of penalty is to encourage taxpayers to pay on time. Taxes become past due on the first day following due dates listed on the billing. Any past due amount is subject to penalty in the amount of 1.25%. Any taxes owing on the first day of January of the year following the current year is in arrears and is subject to interest in the amount of 1.25%. Payments are applied to all penalty and interest first, then to oldest taxes. Penalty and interest are applied on the first of each month (as per Sec 345 of the Municipal Act).

Collection Agency

Section 304 of the *Municipal Act* provides that if a municipality uses a registered collection agency under the Collection Agencies Act to recover a debt including taxes, the collection agency may recover its costs as long as the costs do not exceed the amount approved by the municipality.

Attornment of Rent

Under Section 350 of the *Municipal Act*, the municipality may seize any land occupied by a tenant upon giving proper notice. It is a severe action and should only be initiated after adequate notice. If rent attornment is chosen, the Treasurer or agent will give notice to the tenant(s) in writing requiring the tenant(s) to pay the rent normally paid to the Landlord to the Town as it becomes due, until the amount of taxes due and any unpaid costs are paid in full.

Bailiff Action

Section 349 of the *Municipal Act* provides that taxes may be recovered with costs as a debt due to the Town from the taxpayer originally assessed for them and from any subsequent owner of the assessed land or any part of it. Costs associated with this action are the responsibility of the property owner and are deducted by the bailiff, in accordance with legislation, prior to the remittance of payment to the municipality.

The Town may issue a warrant to distraint for property taxes if the taxes remain unpaid for a period of 14 days after the installment due date. Accounts may be withdrawn from the bailiff if the Town decides to withdraw it and/or if the Town decides that an account will be eligible under the Tax Sale collection procedure.

Small Claims Court

Outstanding taxes of less than \$6,000 may proceed through Small Claims Court. All fees shall be paid by the taxpayer whose account is in arrears. Procedures will be carried out by the Tax Collector or Agency appointed by Council. Follow-up by the Town's solicitor, through the Ontario Court – General Division, may be necessary. All solicitor costs shall be paid by the taxpayer whose account is in arrears. Once a judgement is received by either Small Claims or Ontario Court, the Town will proceed to collect by one of the following methods:

Bailiff – Seizure of Assets, Garnishee of Wages, Garnishee of Bank Account, Bailiff –Writ of Seizure, right to examine taxpayers' books, Contra Account Application (applying outstanding vendor invoices to Tax Accounts owing), Rent Attornment

Tax Sale Registration/Tax Sale

Properties that are in arrears for two (2) years are eligible for tax registration under the *Municipal Act*. The property owner or interested party has one year from the date of registration in which to redeem the property for all taxes, outstanding interest and penalty, including any associated costs; or enter into a Tax Extension Agreement with the Town. This agreement shall be signed by the Property Owner/Representative, the Clerk (or designate) and the Treasurer (or designate). A contracted tax registration firm or solicitor may be used to process the required statutory notices/declarations. The Town administration fee associated with this process is in addition to charges by the third-party firm completing the required notices/declarations, and are defined in the Fee By-law.

Approximately October of each year, arrears letters shall be sent to each property. The letters will advise of potential Tax Sale proceedings should the taxes remain unpaid. If the arrears are still outstanding, the property will receive a Final Notice on the first business day of January in the following year.

Priority of tax accounts for collection is:

- Tax accounts with three (3) or more previous years outstanding
- Tax accounts with two (2) previous years outstanding
- Tax accounts with one (1) previous year outstanding
- Tax accounts with current year only outstanding

A collection letter shall be sent to the property owner prior to use of Bailiff, Collection Agency, or Attornment of rent.

Notices

Notices of Past Due Taxes will be sent a minimum of four times per year, but will not be sent in the months in which a tax billing is issued or in which there is a due date. Past Due Notices shall



be sent in the months immediately following a tax due date, and at a minimum in the month of December.

Any notice sent by ordinary mail is considered delivered to and received by the addressee. Failure to notify the Tax Office, in writing, of an address change is not an error on the Town's part. Section 343 of the *Municipal Act* identifies 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 taxpayer (343(8)).

If acceptable payments arrangements are made, the account is monitored for compliance and follow up is done as required. If the property owner defaults on the payments, the property/account will be sent to collection or tax sale registration depending on the circumstances.

Adjustments

Taxes, Penalty, and Interest will be adjusted only in accordance with:

- Sections 356, 357/8, 364 of the Municipal Act
- Assessment Review Board Decisions
- Sections 34 or 40 of the Assessment Act
- Direction of Council as per the Municipal Act
- Approval by the Treasurer as gross or manifest clerical errors

Fees and Charges

Fees and charges shall be applied for the following:

- Replication of Tax Bills
- Tax Statements
- Additions to the tax roll of any costs related to collection
- Additions to the tax roll (E.g. Water Arrears, Property Standards)
- Tax Certificates
- Returned Items

Minimum Balance Write-off

In some circumstances a balance remains on a taxpayer's account after a payment is received, which is often a result of penalty or interest added to the account after a payment amount was agreed upon and mailed in. When the remaining amount is small enough that the additional cost of collection would not be deemed worthwhile, it *may* be expedient to write the amount off. The Treasurer is authorized to approve such write-offs for outstanding amounts less than \$15.00.

Late Payment Charge Adjustments

Late payment charges are adjusted only in the following circumstances:



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CONSOLIDATED
Tax Billing and Collection Policy
Implemented via By-law 8873-2016
Amended via By-law 8965-2017
Amended via By-law 10055-2019

- Taxes are adjusted under sections 354, 357, 358 or 359 of the Municipal Act;
- Taxes are adjusted following an Assessment Review Board decision;
- Taxes are adjusted in accordance with a decision of the Court(s);
- Taxes are adjusted under Minutes of Settlement or notification of any assessment adjustment from MPAC and
- If interest and/or penalty was charged as a result of the Town's error and/or omission, it shall be at the discretion of the Treasurer to decide whether or not the interest and/or penalty should be adjusted in such cases.

Resources: *Municipal Act, 2001*, as amended
 Bailiff Act
 Ontario Municipal Tax and Revenue Association (OMTRA)