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## POLICY NO. 3

### TAX COLLECTION & TAX SALE POLICY

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#### COLLECTION OF OVERDUE TAXES

It shall be the policy of the Municipality of the District of Barrington to collect overdue taxes by Small Claims Court action, by warrant, by tax sale procedure or by applying outstanding debts owed the taxpayer to the taxpayer's account.

#### Small Claims Court

Overdue taxes which do not constitute a lien against property may be collected by way of judgement through Small Claims Court.

#### Warrants for Collection

Overdue taxes which do not constitute a lien against property may be collected by warrant issued by the Treasurer. The warrant can be issued any time within six (6) years from the time the taxes become due and may be acted upon by any police officer, civil constable, by-law enforcement officer or other employee of the Municipality. Warrants are used to seize personal property to satisfy the debt.

The sale of the personal property seized under a warrant must be advertised at least seven (7) days before the sale, by placing an advertisement in the local newspaper. The advertisement is to advise anyone with an interest in the property to contact the municipal office.

Any surplus from the sale of personal property under a tax warrant must be held for thirty (30) days to allow any person with a claim to come forward. A person with a valid claim includes the true owner of the property or the holder of a chattel mortgage or conditional sales contract in respect to the property. If no one comes forward at the end of the thirty (30) day period, the surplus is paid to the person in whose possession the property was when it was seized.

If the warrant cannot be completely collected, the warrant can be used again or another warrant issued.

#### Application of Debt to Taxpayer

Pursuant to Section 119(3) of the Municipal Government Act, Chapter 18 of the Statutes of Nova Scotia, 1998, a municipality may set off a sum due from a person to the municipality against a claim that person has against the municipality.

Consequently the Municipality will set off amounts owed by the Municipality to a taxpayer against taxes owing to the Municipality by the same taxpayer.

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### **Sale of Real Property**

Outstanding rates and taxes which constitute a lien against the property may be collected by way of Tax Sale proceedings.

Outstanding rates and taxes on a mobile home can also be dealt with in this manner.

Tax Sale procedures are outlined below:

#### **Step 1 - Tax Sale List**

It shall be mandatory for the Treasurer to put a property, including mobile homes, on the tax sale list when taxes on the property are two (2) full years in arrears. There are two exceptions to this: 1) the Treasurer may ask Council to postpone the sale for up to two years, for special reasons as outlined in Section 134(4) of the Municipal Government Act or: 2) the Treasurer and taxpayer enter into a tax arrears payment arrangement.

Once the Tax Sale List has been certified by the Treasurer, all arrears of taxes, interest and expenses must be paid in full to prevent further tax sale procedures.

The tax sale list must contain the name and address of the person assessed, a brief description of the lot to be sold sufficient to identify and locate it, the amount of the arrears of taxes, including interest and frontage charges, etc. and the years in which the arrears were first levied.

#### **Step 2 - Preliminary Notice**

After the Tax Sale List is completed, a Preliminary Notice of Tax Sale must be sent by ordinary mail to the owners (including tenants in common) of property listed on the tax sale list, advising them that taxes are in arrears and giving them a minimum of fourteen (14) days from the date of the notice in which to pay before tax sale procedures commence and additional expenses, such as those for a title search, are incurred.

A copy of the Preliminary Notice of Tax Sale is to be given to the spouse since the Matrimonial Property Act makes it necessary to advise a spouse when a lien is being enforced.

If the property is assessed as Owners Unknown, notice that the property is liable to be sold for rates and taxes must be sent to the Minister of Natural Resources at least 120 days before the date of the tax sale.

#### **Step 3 - Title Search**

A title search of the properties on the Tax Sale List for which the taxes have not been paid is to be completed by the Municipal Solicitor upon the expiration of the Preliminary Notice period. A survey of the property may be ordered by the Treasurer if he feels it is necessary to properly identify and describe the property. Both of these costs form part of the expenses of the sale.

#### Step 4 - Notice of Intent to Sell

Once the title search is completed a Notice of Intent to Sell, explaining that the property is liable to be sold for arrears, shall be sent to the property owner, with a copy to the spouse (if the spouse has not already been notified as an owner) and any person with a mortgage, lien or other interest in the land, such as a judgement, and others identified in the title search.

All Notices of Intent to Sell shall be mailed by “regular mail”. If no address is known, the notice shall be mailed to a tenant or occupant of the property or may be posted in a conspicuous place on the premises. Individuals posting Notices of Intent to Sell shall complete an affidavit outlining details of posting.

When selling properties belonging to owners unknown, the property must also be posted with signs giving notice of the sale. Individuals posting signs shall complete an affidavit outlining details of posting.

The Notice of Intent to Sell shall contain a general description of the property, the amount of arrears of taxes, interest and expenses incurred to date, the year(s) in which they were levied and the name of the assessed owner, a statement that the property is liable to be sold for the arrears, interest and expenses, unless they are paid within sixty (60) days from the date of the notice, an estimate of total expenses that would be incurred if the property is sold for taxes, the proposed date of the sale, a statement to the effect that if the owner challenges the right of the municipality to sell the property, the owner should obtain legal advice and contact the municipality.

A Tax Sale Binder is prepared outlining the detail available for each property scheduled to be sold at Tax Sale. This Binder is to be made available for public viewing.

#### Advertisement and Notice Requirements before the Tax Sale

Properties to be sold at Tax Sale shall be advertised in two (2) issues of a local newspaper. An advertisement shall be placed once at least thirty (30) days immediately prior to the Tax Sale and once during the thirty (30) day period prior to the tax sale. The advertisement shall indicate that payment at the tax sale must be by cash, certified cheque, money order, bank draft or lawyer's trust cheque, only.

#### Tax Sale

The Tax Sale must be held on the date indicated in the Notice of Intent to Sell. Tax Sales are usually held on a Monday at 10:00 a.m. The person conducting the sale should announce that purchasers will be responsible for paying the costs to prepare and register the Certificate of Sale and the Tax Deed. The right of redemption should be mentioned, if there is a right to redeem.

Municipal council members and employees are not permitted to purchase property at a Tax Sale, nor are their spouses or companies.

If only a deposit is paid (total amount owed to the Municipality), the balance must be paid within three (3) business days or the property is to be listed for sale again. The expenses of the resale are to be deducted from the deposit and the balance refunded after the resale. The owner(s) and encumbrancer(s) will be notified of the new sale date. New advertising and costs for notices are deducted from the deposit and is not added to the municipality's expenses for the resale.

The Treasurer, on behalf of the Municipality, may bid on properties, if no one else makes a minimum bid of the outstanding rates, taxes, interest and expenses.

HST must be collected on all commercial properties sold at Tax Sale.

A Certificate of Sale must be registered within ten (10) days of the sale. A copy should be sent to owners who are sent a notice of the right of redemption and a copy will be kept in the Tax Sale files for public inspection.

#### Proceeds of the Tax Sale

The proceeds of the Tax Sale are applied to payment of the arrears of taxes, interest and expenses. The surplus, if any, is deposited in a Tax Sale Surplus Account pending an application to the court to recover it by a person entitled to it. An application to Court to pay out the Tax Sale surplus will usually be made by the former owner(s), but may be a trustee in bankruptcy or some of the heirs of a former owner(s). None of the surplus is paid out until the redemption period, if there is one, has expired. Where there is no application to recover the surplus after twenty (20) years the municipality may use the surplus for a capital purpose. This is provided for by transferring the balance to the capital reserve fund.

#### The Right to Redemption

Notice of the right to redeem the property and a copy of the Certificate of Sale, must be sent to the original property owner. If taxes are more than six (6) years in arrears at the time of the sale, the original owner does **not** have a right to redeem the property, but must still be sent a copy of the Certificate of Sale. Payment of the amount to redeem shall be made by cash, money order, certified cheque, lawyer's trust cheque, debit card, Master Card, American Express and Visa to avoid the complications which could result if payment is made by an NSF cheque.

The right to redemption exists for up to six (6) months after the tax sale. The right to redeem may be exercised by an owner of the property, the holder of a mortgage or other lien or a person with an interest in the land. To redeem the property, the person must pay:

- the sum paid by the purchaser (less any surplus remaining after paying the taxes, interest, expenses and other charges)
- interest at ten (10) percent per annum on the total amount paid by the purchaser.
- taxes and interest for current years taxes. (If tax rate has not yet been set, then a manual calculation must be done using last year's tax rate.)

- the recording fee for the certificate of discharge.
- all fire insurance premiums paid by the purchaser.
- all sums paid by the purchaser for necessary repairs to the property so long as those repairs were approved by the Treasurer in writing.
- less any rent or other income earned by the purchaser from the property.

If the property was bought by the municipality which is exempt from taxation the person redeeming has to pay the taxes that would have been levied if the municipality were not exempt.

Where the property has been redeemed a Certificate of Discharge is to be recorded in the Registry of Deeds.

The purchaser, once the land is redeemed, is paid the original sum, plus interest, plus the cost of insurance and repairs, less the rent or other income earned.

During the redemption period and after, the purchaser has all the rights of the owner, but as long as the property may be redeemed, the purchaser shall insure any buildings on the land, if the buildings are insurable and is deemed to have an insurable interest in the land. If the purchaser makes repairs which the treasurer has not approved in writing, the purchaser will be unable to recover the cost if the property is redeemed. Once the property is redeemed the purchaser ceases to have any right to it.

#### Preparation of Tax Deed

A Tax Deed is issued upon the expiration of the Redemption Period. If there is no Redemption Period then the Tax Deed is issued immediately upon the sale of the property. Tax Deeds are recorded in the Registry of Deeds and must be accompanied by an Affidavit of Value.

#### **PARTIAL PAYMENTS**

Partial payment is applied to Business Occupancy Taxes first. Next, payment is applied to all other taxes that are not liens. Thirdly, payment is applied to accumulated interest and taxes longest in arrears. In this case, the person paying can designate the property to which the taxes are to be applied. If the taxpayer does not designate a property, the payment is to be applied to the taxes longest in arrears. There is only one exception to this, and that is when taxes are paid on behalf of a person purchasing real property, only the business occupancy taxes levied have to be paid before the balance of the payment can be applied to the payment of the taxes on that property.

#### **TAX CERTIFICATES**

The Municipality shall issue Tax Certificates upon request. The Certificate shall certify the amount of rates, taxes, frontage charges, etc. outstanding against a property. The fee charged for Tax Certificates shall be \$30.00.

Approved by Council April 23, 2003.

Amended by Council November 25, 2013.