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SUBJECT: TAX ARREARS COLLECTION POLICY

1.0 PURPOSE

Tay Valley Township Council recognizes that the timely collection of tax arrears is in the best interest of the Municipality. Non-payment of an individual's taxes may result in the Municipality incurring additional costs for borrowing, which in-turn represents unnecessary expenditures for all ratepayers. All costs associated in collecting tax arrears shall be borne by the ratepayer whose account is unpaid.

2.0 LEGISLATIVE AUTHORITY

Section 373 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that where any part of tax arrears is owing with respect to land in a municipality on January 1 in the second year following that in which the real property taxes become owing, the Treasurer of the municipality, unless otherwise directed by the municipality, may prepare and register a tax arrears certificate against the title to the land.

3.0 DEFINITIONS

"Council" – shall mean the Council of the Municipality.

"Municipality" – shall mean the Corporation of Tay Valley Township.

"Tax Collector" – shall mean the Deputy Treasurer of the Municipality.

"Treasurer" – shall mean the Treasurer or designate duly appointed by the Municipality as prescribed in Section 286 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

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4.0 TAX ARREARS NOTICE

- 4.1.1 Tax Arrears Notices will be sent each month, except for the months that tax instalments are due.
- 4.1.2 Any notice sent by regular mail is considered delivered to and received by the addressee. Failure to notify the Municipality, in writing, of an address change, resulting in the return of mail by Canada Post is not an error on the Municipality's part. Section 343 of the *Municipal Act, 2001*, as amended, 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 as per Section 343 (8) of the *Municipal Act, 2001*, as amended.
- 4.1.3 For returned mail, one preliminary search shall be conducted (i.e. Canada 411) to locate a new mailing address for the taxpayer. If no match is found, a non-confidential letter is sent to the premises where the taxes are payable in an attempt to contact the taxpayer. This effort will be documented on the tax account inquiry screen. If unsuccessful, no further action will be taken by the Municipality to locate the whereabouts of the taxpayer. Biannually, a notice shall be placed in the local newspaper and on the Municipal website to inform residents that the tax bills are being mailed and to inform the Municipality if they do not receive a tax bill. Failure to receive a tax bill does not invalidate penalty charges.
- 4.1.4 In October (or as close to) of each year, arrears letters shall be sent to each property which will be in two (2) years arrears or more on the first day of January in the following year. The letters will advise of tax sale proceedings should the taxes remain unpaid.
- 4.1.5 All verbal contacts with taxpayers regarding payment of arrears will be recorded on the tax account inquiry screen of the appropriate tax account. All written correspondence (to or from the Township) will be kept on file.

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4.1.6 Late payment charges (interest and penalty) are adjusted only in the following circumstances:

- i) Taxes are adjusted under sections 354, 357 or 358 of the *Municipal Act, 2001*, as amended;
- ii) Taxes are adjusted following an Assessment Review Board decision;
- iii) Taxes are adjusted in accordance with a decision of the Court(s);
- iv) Approved by the Treasurer as gross or manifest clerical error.

4.1.7 The Tax Collector will review the status of any arrears on a monthly basis and take appropriate action as outlined in this Policy.

4.2 APPLICATION TO SMALL CLAIMS COURT - ARREARS LESS THAN \$6,000

4.2.1 Outstanding taxes of less than six thousand dollars (\$6,000) may proceed through Small Claims Court.

4.2.2 All fees shall be paid by the taxpayer whose account is in arrears.

4.2.3 Procedures will be carried out by the Tax Collector or Collection Agency appointed by Council.

4.2.4 Follow-up by the Township'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.

4.2.5 Once judgement is received by either Small Claims or Ontario Court, the Township will proceed to collect by one of the following methods:

- i) Rent Attornment – Rent attornment is available for tenant occupied properties only. Where taxes are owed in respect of any land occupied by a tenant, the Tax Collector may give the tenant notice in writing requiring the tenant to pay the rent in respect of the land to the Tax Collector as it becomes due up to the amount of the taxes due.

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- ii) Bailiff Action – Bailiff Action may be used as provided for in Section 349 of the *Municipal Act, 2001*, as amended. Taxes may be recovered as a debt due to the Municipality from the taxpayer originally assessed for them and from any subsequent owner of the assessed land or any part of it.

4.3 REGISTRATION OF ARREARS IN EXCESS OF LEGISLATIVE TIME LIMITS

4.3.1 Where taxes remain outstanding in excess of two (2) years, action will be taken under tax registration as legislated by the *Municipal Act, 2001*, as amended.

4.3.2 The use of tax registration and tax sale is a last resort and will be avoided where possible through the establishment of a payment plan.

4.3.3 Prior to the commencement of tax arrears registration procedures, the Tax Collector shall send a Final Notice to the taxpayer to pay in full within twenty-one (21) days all taxes that are in the two (2) years or beyond along with all penalties. Such notice shall also include an explanation of the tax arrears registration process. The notice will further specify that tax sale proceedings will begin should the overdue amount not be paid or suitable payment arrangement made.

4.3.4 Payment Arrangement

A reasonable payment arrangement will be accepted by the Municipality if the payment arrangement ensures that all tax arrears, current taxes, accruing estimates of future taxes and penalties and interest will be paid in full within a reasonable period of time. Penalties and interest will continue to accrue during all such payment arrangements until full payment on the account has been made.

4.3.5 Extension Agreement

Extension agreements are offered as a collection mechanism to assist taxpayers to set up a formal payment plan to return their tax account to current status and avoid the tax sale process. Extension agreements, executed by the Treasurer, outline specific requirements where a taxpayer must pay all outstanding penalties along with all taxes which fall within the second and third years of arrears. Further, they must provide for a payment plan which would have their arrears fully paid within two (2) years while maintaining current instalments as they become due. If a property owner defaults in any of the requirements, the tax sale process would then continue at the point where the agreement had been reached.

- 4.3.6 If acceptable payment arrangements or an extension agreement is negotiated, the account will be monitored for compliance and would not be placed in the tax sale process but should the arrangement not be followed the tax sale process would immediately begin.
- 4.3.7 If acceptable payment arrangements or an extension agreement is not negotiated prior to the deadline date provided in the Final Notice, then all properties in excess of two (2) years in arrears shall begin the tax sale process.
- 4.3.8 The list of qualifying tax sale properties will be distributed internally to other departments to ensure that there are no outstanding issues on the properties that may involve the Municipality or other organizations such as the Municipal Property Assessment Corporation (MPAC). Should there be any properties that do fall under this category they will be excluded from the tax sale registration to provide for further investigation.
- 4.3.9 Once the list has been streamlined, the Tax Collector shall forward details of the tax account to a contracted tax registration firm or solicitor for commencement of registration procedures and process the statutory notices/declarations. All costs incurred by the contracted tax registration firm and/or solicitor shall be added to the cancellation price in the tax arrears registration certificate.



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4.3.10 The taxpayer or interested party has one (1) year from the date of the registration in which to redeem the property for all taxes outstanding, interest and penalty, including any associated costs.

4.3.11 Failure to provide payment in full within one year of the registration of the tax arrears certificate will result in the property being advertised for public sale. Properties will be advertised in accordance with the regulations.

4.3.12 Under the *Municipal Act, 2001*, as amended, the Municipality has the option to vest or re-advertise the properties that were not successfully sold within two (2) years of the tax sale date. After the two year period, the process is deemed to be cancelled and would need to start over.

4.3.13 Within thirty (30) days of tender opening, the Tax Collector will distribute to all departments the listing of unsold properties and will provide for a six (6) month period where these properties can be vested. A request to vest will need to be supported by a detailed rationale of purpose, benefits, risks and costs before it can be presented to Council for consideration.

4.3.14 For the properties where there is no interest and/or once the six (6) months have expired, the Tax Collector will include the property in the next tax sale advertisement in an attempt to sell the property again.

5.0 ACCOUNTABILITY FRAMEWORK

The Treasurer is responsible for ensuring compliance with this policy.

6.0 POLICY REVIEW

This Policy shall be reviewed at least once per term of Council.

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