



TOWN OF SHELBURNE

Tax Sale Policy

Adopted December 3rd, 2014

1. PURPOSE

To identify the criteria that will result in a property being placed on the tax sale list, as permitted under Section 134 of the Municipal Government Act (MGA); to establish guidelines for the tax sale process; and, to enable the Treasurer to make tax arrears payment arrangements with property owners.

2. POLICY STATEMENT

- 1) It is the Policy of the Town of Shelburne that all property taxes be collected in a timely manner. Property tax accounts that fall into arrears will be subject to collection efforts that ultimately can result in a tax sale.
- 2) The Town Treasurer shall prepare annually a list of properties meeting the criteria for tax sale and report that list to Council, oversee the tax sale process, and make tax arrears payment arrangements with property owners.

3. TAX SALE LIST

- 1) MGA Section 134 (1) allows property to be sold if taxes are in arrears one year, while Section 134 (2) indicates property *shall* be sold if taxes are in arrears for the preceding three years.

Commencing with the taxation year ending March 31, 2015 and subject to the exceptions below, any property which is in arrears of taxes for the two preceding taxation years, shall be placed on the Tax Sale List as soon as possible after June 30th of the following taxation year.

If a property owner has entered into a tax arrears payment arrangement and defaulted on the agreement within the three preceding years the property shall be placed on the Tax Sale List when it is in arrears of taxes for one preceding taxation year.

- 2) The Town of Shelburne will not place any properties on the Tax Sale List if the property owner and the Town have entered into a tax arrears payment arrangement and the property owner is in compliance with the agreement.
- 3) In preparing the list for the tax sale, no property shall be listed who's outstanding balance is \$300 or less. However this policy does not apply to any property with an annual tax bill totalling less than \$300.
- 4) The Town of Shelburne will not place any properties on the Tax Sale List if the solicitor for the

Town advises that a sale of the property would expose the Town to an unacceptable risk of litigation.

- 5) The Town of Shelburne will not place any properties on the Tax Sale List if the taxes have been deferred pursuant to a by-law.
- 6) The Town of Shelburne may not place any properties on the Tax Sale List if the property has been put up for sale three times in the preceding three years and no satisfactory offer has been made with respect to it.
- 7) Subsequent to a property being placed on the Tax Sale List, the Town of Shelburne will follow the provisions of the Municipal Government Act with respect to the manner of carrying out the Tax Sale of a property.
- 8) The time limit allowed between the date of the preliminary notice to the owners of property on the tax sale list and when procedures are commenced and additional expenses are incurred for title searches, etc. shall be twenty-one (21) days.
- 9) The Tax Sale List will be reported to Council prior to the commencement of the formal tax sale process.

4. TAX SALE PROCESS

- 1) MGA Section 141 (1) indicates property liable to be sold for taxes *shall* be sold at public auction, while Section 141 (2) allows such property to be sold by tender.

The following properties will be sold by tender:

- a) Properties which are held to be of insufficient size or dimensions to be capable of any reasonable use.
- b) Properties which have been put up for sale in the preceding year and no satisfactory offer has been made with respect to it.
- c) Additional properties at the discretion of Council.

All other properties will be sold at public auction.

- 2) The council may direct the Treasurer as to what constitutes an acceptable minimum tender or bid, if the Treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses. The acceptable minimum tender or bid shall constitute the taxes, interest, and expenses for the property unless otherwise directed by Council.
- 3) The following process shall be followed for sale at public auction:

The Treasurer shall introduce the properties on the Tax Sale List to be sold at public auction by minimum bid in ascending order. The minimum acceptable bid will be announced at the beginning of sale for each property; this bid constitutes the taxes, interest, and expenses for

each property. After a bid is made the Treasurer will make the statement “is there any advance on the last bid of X dollars” three times or until another bid is made. When no further bid is forthcoming the Treasurer will make the statement “are there any further bids” three times and where no further bids are made the Treasurer will declare the property sold to the highest bidder. If no bids are made the Treasurer may exercise the right under MGA Section 143 and purchase the property for the Town of Shelburne for the minimum acceptable bid.

Payment of cash, certified cheque, or lawyers trust cheque to cover taxes and expenses must be made at the time of sale. The balance of the purchase price if any must be paid in like manner within three (3) business days. If the balance is not paid the Town will retain the initial instalment and use that to pay any and all expenses to conduct another sale. Any remaining balance will be refunded once the successful sale is concluded.

4) The following process shall be followed for sale by tender:

The Treasurer will advertise the properties on the Tax Sale List to be sold by tender in the local paper and on the Town's website. The properties will be advertised for a minimum period of three (3) months; a minimum of one advertisement per month will be published in the local paper. Advertisements are to provide the Assessment Account Number, Civic Number, minimum bid and description for each property being sold by tender.

The Town of Shelburne makes no representation on the size of any of the lots described. The Town of Shelburne requires that the buyer at their cost survey the lot before the actual deed is prepared. It is the responsibility of the tendered to satisfy him or himself on the size of the lot on which the tender is submitted.

Tenders are to be enclosed in a sealed envelope clearly marked and include the property number and description of the property being tendered, amount of bid, name and address of the bidder and a telephone number where the bidder can be contacted.

The person whose tender is accepted shall pay the tender price by certified cheque or bank draft within three business days after being notified of the acceptance at which time the Schedule “A” will be forwarded to the purchaser for the migration and deed preparation. The finalized deed will be forwarded to the Town of Shelburne Solicitor for final approval and to apply signatures. The deed will be forwarded to the purchaser to record.

The purchaser will be responsible to pay the Town of Shelburne within forty-five (45) days of the accepted tender for all legal costs including, survey cost, cost of the migration of the property, deed preparation costs, registration fees and applicable taxes before the actual deed is prepared.

The Town of Shelburne reserves the right to reject any or all tenders, not necessarily accept the lowest tender or to accept any tender which it may consider to be in the best interest of the Town. If the all tenders for a property are rejected the Treasurer may again put the land up for sale, by tender or by public auction.

5. **CONFLICT OF INTEREST**

- 1) No council member or employee of the Town, nor a spouse of a council member or employee, nor company in which any of the aforementioned owns or beneficially owns the majority of the issued and outstanding shares, shall purchase the land at the sale either directly or through an agent. MGA Section 144 (3) provides that a person who contravenes this Section is liable, on summary conviction, to a penalty of five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months. Where there is a conviction pursuant to subsection (3), the relevant person forfeits their office or employment, as the case may be.

6. **TAX ARREARS PAYMENT ARRANGEMENTS**

- 1) MGA Section 134 (5) allows Council to adopt a policy permitting tax arrears payment arrangements.

Where the owner of a property approaches the Town of Shelburne and requests to enter in a tax arrears payment arrangement for the property, the Town of Shelburne may enter into such an agreement, as outlined below.

- 2) Where the property has been identified as eligible for the current fiscal year tax sale proceedings, the Treasurer may contact property owners to enter into such an agreement.
- 3) The Treasurer shall determine the total of all tax amounts (property, area rates, special rates, etc) owing to the Town of Shelburne related to the property, and all shall be included in the tax arrears payment arrangement.
- 4) A tax arrears payment arrangement may include multiple properties. A default on the agreement related to one property will be deemed to be a default on all properties within the agreement.
- 5) Any tax arrears payment arrangement does not affect the amount of interest owing or the rate at which interest is calculated on outstanding balances.
- 6) A tax arrears arrangement is valid to the end of the fiscal year in which it is made.
- 7) To calculate the *Monthly Payment* under the tax arrears payment arrangement for a property, the following formula shall be utilized:
 - a. Monthly Tax Arrears: total balance owed to the Town at the end of the preceding taxation year, divided by the number of months remaining in the fiscal year.
 - b. Monthly Interest: total outstanding balance multiplied by current interest rate, divided by the number of months remaining in the fiscal year.
 - c. *Monthly Payment* = Monthly Tax Arrears + Monthly Interest
- 8) At the date of signing, the taxpayer may choose to schedule payments to allow for seasonal fluctuation in income. Up to half of the payments may be reduced to as low as 50% of the *Monthly Payment*, with corresponding increases in the other payments. No payment may

exceed 150% of the *Monthly Payment*.

- 9) Monthly Payments are due by the close of business on the last business day of the month.
- 10) Any Monthly Payments not received by the dates specified in the agreement, on the first instance, shall be deemed to be a default on the agreement. The tax arrangement is in effect for the remainder of the fiscal year.
- 11) If a tax arrears payment arrangement is in default, the Town of Shelburne shall proceed to tax sale at the next opportunity.
- 12) Amendment or renegotiation of tax arrears payment arrangements are at the discretion of the Treasurer where a current agreement exists and the agreement is not in default. Amendment or renegotiation will not be considered where the agreement is in default.
- 13) While a tax arrears payment arrangement is in force on a property, the property owner shall not subdivide to make the property smaller, or demolish a building on the property in whole or part, without the prior approval of the Treasurer.
- 14) No repayment shall be made from the Town under policies that may provide repayment of taxes where destruction has occurred (Section 69A of the MGA). Further, no refund will be made to the owner for any reductions in taxes owing as result of an appeal on assessment. Such amounts will be credited to the tax arrears payment arrangement.
- 15) Proof of insurance must be provided to the Town of Shelburne every six months.
- 16) For property owners with a tax arrears payment arrangement which is not in default, at the date of Council adoption of this policy, the tax arrears payment arrangements shall remain in effect until March 31st, 2015.