

POLICY	
Policy Number: FIN2021-001	Date Approved: November 16, 2021
Department: Finance	Date Reviewed:
Tax Billing and Collection Policy	

1. Policy Statement

To establish a policy for the prompt, effective and efficient billing and collection of property taxes.

2. Purpose

The purpose of this policy is to establish the responsibilities, internal controls, authorizations and procedures for the timely, accurate and efficient preparation and collection of property taxes.

3. Scope

This policy:

- provides direction to staff regarding the timely and efficient billing and collection of property taxes and any amounts added as taxes for collection. Municipal staff and Council shall reference this document when communicating with the public regarding property taxes;
- will conform to current legislation and the *Municipal Act, 2001*. Where this policy contradicts legislation of the Province of Ontario or the Government of Canada, the legislation shall be followed;
- will not apply to the waterworks/wastewater billing and collection process which will be covered under a separate Waterworks/Wastewater Collection Policy. However, when outstanding waterworks/wastewater balances are transferred to the tax roll, this policy will apply to those amounts that have been added; and
- shall be reviewed on a regular basis. Amendments may be made at any time at the recommendation of the Treasurer. The appropriate authority must approve any policy changes.

4. Procedures

In order to ensure the prompt, effective and efficient billing and collection of taxes to meet the budgetary expenditures for the fiscal year, the following procedures will be addressed in this policy:

- A. Tax Billings
- B. Payment Options and Methods of Payment
- C. Payment Application
- D. Issuance of Payment Receipts
- E. Penalty and Interest Charges (Late Payments)
- F. Tax Arrears – Collection Methods and Payment Incentives
- G. Miscellaneous
- H. Reporting Standards

A. Tax Billings

The authority to levy taxes is provided in Section 312 of the *Municipal Act, 2001*.

Tax levying by-laws passed by Council are required in advance of interim and final tax billings.

As provided in the *Municipal Act, 2001*, each property owner identified on the returned assessment roll shall be mailed an interim tax bill. The interim bill shall represent up to fifty percent (50%) of the previous year's taxes billed and be payable in two (2) instalments.

After completion of the annual budgetary process and the setting of tax ratios and rates, a final bill shall be mailed to each property owner identified on the returned assessment roll. The final tax bill shall be the levied taxes for the year less the interim bill and is payable in two (2) installments.

Supplementary tax billings are issued throughout the tax year as Supplementary and Omitted Assessment Rolls are provided to the Town by the Municipal Property Assessment Corporation (MPAC). These rolls represent:

Omissions – allow for the taxation of real property that has been omitted from the returned tax roll. This provision allows for taxation in the current year, plus an additional two (2) preceding years. The applicable tax rates for the effective years will be applied.

Additions – allow for the taxation of assessment that has increased in value or has been added after the return of the last revised roll. These taxes apply only to the current taxation year.

Tax bills issued will meet all of the requirements of Section 343(2) of the *Municipal Act, 2001*. Any arrears are included solely in the first instalment amount on each bill.

Where allowed by legislation, and where available, provision of tax bills, arrears notices, and other related correspondence may be provided electronically.

Tax bills must be mailed at least 21 calendar days prior to the first due date in accordance with Section 343 of the *Municipal Act, 2001*. Specific due dates will be identified in both the Interim and Final levy by-laws for the municipality.

A mortgage listing of roll numbers, taxes due and owing and the due dates, in standard format, will be provided to each mortgage company who has provided the municipality with notification that they hold an interest in a particular property.

B. Payment Options and Methods of Payment

Payment of taxes must be received by the municipality at Town Hall on or before the due date. The following are the available methods of payment:

- Cheque made payable to the Town of Kirkland Lake and mailed to:

Town of Kirkland Lake
P.O. Box 1757
Kirkland Lake, ON P2N 3P4

If making payment by mail, the tax bill stub should be included with payment.

- In person, at the counter (by cash, cheque, debit) or drop box at Town Hall at 3 Kirkland Street, Kirkland Lake, ON
- Through telephone or internet banking (using the nineteen digit roll number as the account number)
- In person at any chartered bank
- Post dated cheque(s) (held for deposit as they become due)
- Payments by a mortgage lender
- Other alternatives as approved by the Treasurer.

Third party cheques are not accepted. A cheque made payable to both the Town of Kirkland Lake and the property owner is not considered to be a third party cheque and will be accepted as payment.

When mailing a property tax payment, the taxpayer assumes the responsibility for the late payment charge if the payment is not received by the municipality by the due date.

Payments made by telephone or internet banking may not be received by the municipality for at least three (3) business days. Payments made using these methods should incorporate sufficient time for the municipality to receive the payment by the due date.

Any cheques returned for any reason will be subject to a returned payment fee as set out in the Town of Kirkland Lake's current User Fees By-Law.

C. Payment Application

Payments are applied to outstanding property tax accounts in accordance with Section 347(1) of the *Municipal Act, 2001*. Any partial payment shall be applied first to any penalty or interest outstanding and then to any outstanding taxes starting with the oldest amounts outstanding.

Partial payments are not accepted where a Tax Arrears Certificate has been registered against a property, except where the Town has entered into an Extension Agreement. If payment is received, it will be returned or refunded as appropriate.

In the instance where a taxpayer has made a payment to the incorrect roll number or account number, or to their Utility account instead of the Property Tax account, he/she should contact the Tax Department as soon as the error is realized and request that the payment be transferred to the correct roll number/account. Penalties and interest will be waived if the Tax Department is informed within one (1) month of the error. If the error occurs on a second occasion for the account, the penalty and interest will not be waived and an administrative fee will be charged (as set out in the Town's current User Fees By-Law) in order to process the transfer of the funds.

D. Issuance of Payment Receipts

Upon attendance at Town Hall with payment of taxes, a receipt will be issued. There is no charge for this service.

If postdated cheques are submitted, no receipt will be issued as the cheques must be held for deposit until they become due. A confirmation of the receipt of cheques may be issued upon request.

Payments received by mail will not be issued a receipt. If a receipt is required, the entire tax bill must be submitted with payment along with a self-addressed, stamped envelope. If no envelope is submitted, the receipted bill will be held in a file for pick-up. There is no charge for this service.

For those properties that have a mortgage company interest registered on title, a mortgage listing is forwarded to the mortgage company for payment. Upon receipt of final payment, the paid tax bill will be forwarded to the taxpayer for their files. There is no charge for this service.

In the case where a property has been sold during the year, no receipt will be issued. When the property is sold, there is a calculation by the lawyers to determine which portion of the taxes pertains to each property owner (old and new). The information in the tax system is based on the property as a whole and no breakdown is available to allocate to each property owner.

Should a taxpayer require a record of payment of his/her annual tax bill or require a duplicate statement for a previous year, a fee as prescribed in the Town's current User Fees By-Law will apply.

E. Penalty and Interest Charges (Late Payments)

Penalties and interest are charged at a rate of 1.00% (changing to 1.25% effective January 1, 2022) on the first day of default and the first day of each month thereafter on all property tax arrears in accordance with Town By-Laws and Section 345 of the *Municipal Act, 2001*. Penalty and interest will not be compounded.

Failure to receive a tax bill does not absolve a taxpayer from any taxes due or from penalties and interest added as a result of late payment. It is the taxpayer's responsibility to notify the municipality, in writing, of any mailing address changes. Section 343(6) of the *Municipal Act, 2001* identifies that property 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 in writing. The direction for the delivery of tax bills and/or any other applicable notices continues until it is revoked in writing by the taxpayer.

Any tax bill, arrears notice, or other related correspondence sent by ordinary mail is considered delivered to and received by the addressee unless the notice is returned by the post office or an error in the mailing address is proven. Failure to notify the municipality of a mailing address change in writing is not considered to be an error.

Penalty and interest charges added to taxes form part of such taxes and shall be collected as taxes. All collection actions taken against a property tax account shall include any and all outstanding penalty and interest charges.

Penalty and interest charges are only adjusted in accordance with:

- a) Tax appeal adjustments made under Sections 334, 354, 357 and 358 of the *Municipal Act, 2001*;
- b) Adjustments to the assessment roll made subsequent to roll close by MPAC through a Request for Reconsideration (RFR), Advisory Notice of Assessment (ANA) or Post-Roll Amended Notice (PRAN) or through a decision of the Assessment Review Board (ARB) or any other changes made as a requirement of the *Assessment Act*;
- c) Taxes adjusted in accordance with a decision of the Courts;
- d) Errors or omissions resulting in penalty and interest charges as a result of the Town's error or omission; or
- e) Circumstances deemed appropriate by the Treasurer and/or Tax Collector.

The amount of the penalty and interest charges cancelled is limited to the amount related to the tax reduction associated with a tax adjustment, change in assessment or Town error or omission.

F. Tax Arrears – Collection Methods and Payment Incentives

Property taxes are a secured special lien on land in priority to any other claim except a claim by the Crown.

The Town will primarily use the following methods to collect taxes in arrears:

- Arrears Notices
- Telephone Follow-Up / Personal Contact
- Payment Arrangements
- Set-Offs
- Form or Personalized Letters
- Title Searches / Notification of Interested Parties
- Rent Attornment
- Bailiff Action
- Municipal Tax Sales

Property taxes may be recovered, with costs, as a debt due to the Town from the original owner and/or any subsequent owner of the property.

The final resolution to clearing unpaid taxes two (2) or more years in arrears is through a tax sale of the property. This authority is provided to municipalities as per Part XI of the *Municipal Act, 2001* wherein it sets out the process for the “Sale of Land for Tax Arrears”. Prior to the commencement of tax sale proceedings, the following collection steps are available:

Arrears Notices

Past due notices will be sent for properties in arrears. Notices will not be sent in the months in which a tax billing is issued or in which there is a due date. At a minimum, past due notices shall be sent in the month of December. These notices will only be sent to taxpayers whose account(s) are over \$25.00 in arrears.

Telephone Follow-Up / Personal Contact

In addition to the mailing of arrears notices, telephone and/or personal contact may be attempted for taxpayers in arrears. Results of this contact will be documented and noted on the property tax account for future reference.

Payment Arrangements

Payment arrangements may be entered into with a property owner who is in arrears prior to the registration of a Tax Arrears Certificate. Payment arrangements must include all tax arrears, current taxes, accruing estimates of future taxes, penalties and

interest and be sufficient to ensure that payment in full is realized by the end of the agreement term. Any payment arrangements made must specify the time schedule, method of payment and the amount of each payment.

A taxpayer would be considered to be in default of the established payment arrangements if a payment is not made or if it is returned by their financial institution. Once in default of the payment arrangement or no satisfactory payment arrangement can be made, the Town will proceed or resume other collection actions as set out in this policy including the registration of a Tax Arrears Certificate.

Penalties and interest will continue to accrue during all such payment arrangements until full payment on the account has been made. Payment arrangements will not include any forgiveness of penalties and/or interest. Post-dated cheques are to be obtained wherever possible. Payment arrangements should be documented and noted on property tax accounts for future follow-up and be specific in their agreed upon terms.

Set-Offs

Where a municipal supplier is also a taxpayer in default, the Town may set-off taxes owed by the supplier against a payment owed by the Town to that supplier. Wherever possible, this will be done through discussion with the taxpayer/supplier.

Form or Personalized Letters

Before an account is two (2) or more years in arrears, specific collection letters/notices are sent to property owners advising of the potential of tax sale proceedings. The letters/notices will request payment in full or offer the property owner the opportunity to make specific payment arrangements to clear the account. A letter/notice is sent prior to December 31st each year to each account that will be two (2) years in arrears as of January 1st of the following year.

All tax accounts two (2) years or more in arrears will be subject to collection proceedings which could lead to the "Sale of Lands for Tax Arrears" as provided by Part XI of the *Municipal Act, 2001*. If no payment or payment arrangements have been made by December 31st, a final letter will be sent advising the assessed owner of the effective date of tax registration if suitable payment arrangements are not met.

Title Searches / Notification of Interested Parties

When a property approaches two (2) years in arrears, a title search may be conducted to identify all outstanding encumbrances and parties with a registered interest in the property and to confirm that the owners shown on the tax roll are accurate. The Town could then provide information of the outstanding tax arrears to all registered mortgagees shown on the property records of the Land Registry Office in an effort to secure payment before implementation of the tax sale process. This notice to interested parties advises that the Town intends to proceed with a tax sale and provides them with an opportunity to pay the arrears in order to protect their interest in the property.

Rent Attornment

Rent attornment is only available for tenant occupied properties and is provided for under Sections 350 and 351 of the *Municipal Act, 2001*.

A first notice is sent advising the owner that the account is in serious arrears and that if full payment or alternative payment arrangements are not made, the seizure of rent could take place. If full payment has not been received or payment arrangements made within thirty (30) days from the date of the first notice, a second notice will be sent advising the owner of the effective date that rent attornment will be implemented by the Town if full payment or payment arrangements have not been made.

When the taxes still remain unpaid thirty (30) days from the date of the second notice, a third notice will be sent to the tenants advising them to remit their rents to the Town as a result of the tax arrears.

The second and third notices will be sent by registered mail.

This is considered a severe action and should only be initiated after adequate notice.

Bailiff Action

The Town is authorized to utilize third party services, including a Bailiff, to expedite collection prior to registration of a Tax Arrears Certificate for residential realty tax accounts which are two (2) years or more in arrears and have received notice of such. Commercial, industrial and multi-residential properties may have the services of a Bailiff utilized at any time prior to the registration of a Tax Arrears Certificate in order to expedite collection.

Section 349 of the *Municipal Act, 2001* provides that taxes may be recovered with costs 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. When the services of a Bailiff are deemed appropriate to facilitate the collection of tax arrears, the Town may issue a notice called "Final Notice – Bailiff Collection" to property owners advising a "warrant to distrain" will be issued to a Bailiff in order that the outstanding taxes are collected.

The services of a Bailiff may include personal visitation to the property as an agent of the Town in an effort to collect or arrange settlement of the account in full with the property owner. 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. Once an account is forwarded to a Bailiff for collection purposes, the property owner must deal directly with the Bailiff and make payments directly to the Bailiff. The Town will not accept payments from property owners in this case as it blurs the line of accountability and record keeping with respect to collection efforts and costs.

Municipal Tax Sales

i. Tax Registration

Tax registration should only be considered after all reasonable efforts to work with the taxpayer to make suitable arrangements have been attempted.

The Town will follow the procedures as set out in Part XI of the *Municipal Act, 2001* when the decision is made to implement the tax sale process.

The Town may use an external party/firm to process all required statutory notices as part of the tax registration process.

Prior to the commencement of the tax sale process, a Farm Debt Mediation Act “Notice of Intent to Realize on Security” will be sent to the registered property owner(s) as well as all other interested parties. This notification serves as final notice before a Tax Arrears Certificate Registration is completed. It provides the property owner with thirty (30) days to pay their tax arrears in full or enter into a firm, suitable arrangement with the Town. Otherwise, the Town will register a Tax Arrears Certificate against the property. Once registered, the Town will send a Notice of Registration of Tax Arrears Certificate to the property owner and all interested parties.

Once tax registration procedures commence, the property owner or interested party has one (1) year from the date of registration in which to redeem the property by paying the cancellation price which includes all taxes, interest and penalties outstanding plus all associated legal and/or administrative costs. No partial payments are allowed. If full payment is made, the Town will register a Cancellation Certificate (as defined by the *Municipal Act, 2001*).

ii. Extension Agreement

If requested within the redemption period, the Treasurer may enter into an Extension Agreement (as defined under Section 378 of the *Municipal Act, 2001*). If there is a breach of the Extension Agreement, the tax sale process recommences.

iii. Sale of Land

If the cancellation price is not paid, the *Municipal Act, 2001* provides that the property may be sold by sealed tender or public auction. The Town’s preference is by sealed tender. Public tenders will be conducted according to Section 379 of the *Municipal Act, 2001*.

To be eligible, bids must be at least equal to the advertised minimum tender amount (ie. the cancellation price).

Prior to submitting a tender, the onus is on the potential bidder to conduct his/her own inquiries into such matters as zoning, access, work orders, water/hydro and other arrears/building restrictions or title problems. The Town makes no representations whatsoever as to the quality and/or quantity of the land being purchased.

There is no requirement for the municipality to establish market value prior to the sale, provide any warranties with the property or provide vacant possession. The Town does not conduct tours or provide access to properties being sold under tax sale.

A separate tender must be provided for each parcel bid on and must be in the form provided. No substitutes can be accepted.

The tender must be accompanied by a deposit of at least 20% of the tender/bid amount by way of money order, bank draft or certified cheque payable to the Town of Kirkland Lake.

The successful tender is the highest bidder who has submitted a properly completed tender and who makes payment (by certified cheque, bank draft or money order) within 14 calendar days of being notified by mail of the balance of the amount tendered, the appropriate land transfer tax, the accumulated taxes, penalties and interest and HST (if applicable) to the Town.

If the highest bidder does not submit the remaining funds as described, then the highest bidder's deposit is forfeited and the land is offered in the same manner to the second highest bidder who then has 14 calendar days from the date of notification to remit the monies owing to the Town.

If two (2) bids of equal amount are tendered, then the person who submitted the earlier bid will be deemed to be the higher bid.

From the sale of proceeds, the Town retains sufficient funds to clear all outstanding taxes, penalties and interest and costs (total is considered to be the cancellation price). Any proceeds in excess of the cancellation price shall be paid into the Court, where any party having a claim may apply for a share of the surplus.

The Treasurer has the discretion to cancel a tax sale pursuant to Section 382(6) of the *Municipal Act, 2001*.

iv. Unsuccessful Tax Sale

If there is no successful tax sale, the Treasurer shall report to Council to suggest further actions that may be taken which may include registration of a notice of vesting.

G. Miscellaneous

i. Amounts Added to Tax Roll

Section 398 of the *Municipal Act, 2001* allows the municipality to place unpaid fees and charges owing to the municipality on to the property tax roll to which the services were provided regardless of who was in receipt of the said service. This allows non-

tax debt to be added to the tax roll and collected in the same manner as municipal taxes.

ii. Minimum / Small Balance Write-Offs

Some accounts have balances remaining that are small enough that the additional cost of collection is not deemed worthwhile. The Treasurer or Tax Collector is authorized to approve such write-offs for outstanding amounts less than \$5.00.

iii. Tax Service Charges

Subject to annual review and Council approval, certain service charges may be levied on individual tax accounts in amounts set by Town By-Law. Reference should be made to the Town's current User Fees By-Law.

iv. Refunds and Credit Balances

From time to time, property tax accounts may experience credit balances for various reasons.

All refund requests must be made in writing to the Town of Kirkland Lake's Tax Collector. All requests will be thoroughly reviewed by staff before any cheque requisitions are produced.

No refund will be provided unless there is an overpayment on the account. All taxes owing, including those levied but not yet due, must be paid before a refund will be issued.

Prior to refunding any credits from the property tax account, the municipality will verify that all other debts with the municipality (utilities, miscellaneous accounts receivable, etc.) have been cleared prior to releasing a credit refund. The municipality reserves the right to transfer credits on property tax accounts to accounts with other debt.

Credits resulting from tax rebate programs will be applied to the property tax account against any outstanding taxes billed and owed. Any remaining credit will be left on the account and written notification will be sent to the property owners to advise them of the appeal's completion.

In cases of overpayments or misapplied payments to property tax accounts, the party requesting the refund must also submit proof of payment along with their refund request.

Tax and Assessment Appeal credits will be refunded in compliance with Section 341(2) of the *Municipal Act, 2001* which states that the municipality "...shall refund any overpayment to the owner of the land as shown on the tax roll on the date the adjustment is made...". Former owners of property applying to the Town for refunds of property taxes must obtain a written letter of authorization from the property's current owners before any funds can be released to them.

The municipality reserves the right to request any additional documentation as deemed necessary in order to facilitate the processing of a refund request.

v. Tax Certificates

Tax certificates will be issued upon written request and the submission of the requisite fee according to the Town's current User Fees By-Law.

H. Reporting Standards

The Tax Collector shall prepare a quarterly report for the Treasurer's and Council's information or as directed by Council with respect to tax collections, summarizing taxes levied and collected in the current year and outstanding property taxes from previous years.

5. Summary

The Treasurer has the authority to exercise discretion in the application of these policies where unusual circumstances are apparent. The guiding principles for this discretion shall be ensuring legislative requirements are met, ensuring fairness to all taxpayers, and that the overall best interests of the Town are met.