

For Information Only

Public Sale for Tax Arrears Under the Municipal Act - April 30, 2020

Presented To: Finance and
Administration
Committee

Presented: Tuesday, Feb 11, 2020

Report Date Tuesday, Jan 28, 2020

Type: Correspondence for
Information Only

Resolution

For Information Only

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

This report deals with a public tax sale for properties in tax arrears under the authority of Part XI of the Municipal Act of Ontario. On Thursday, April 30, 2020 the City of Greater Sudbury will offer approximately thirty five (35) properties for sale in accordance with the rules and procedures governing a public tax sale.

Financial Implications

There are no financial implications associated with this report.

Signed By

Report Prepared By

Kyla Bell
Manager of Taxation
Digitally Signed Jan 28, 20

Manager Review

Ed Stankiewicz
Executive Director of Finance, Assets
and Fleet
Digitally Signed Jan 29, 20

Financial Implications

Apryl Lukezic
Co-ordinator of Budgets
Digitally Signed Jan 29, 20

Recommended by the Department

Kevin Fowke
General Manager of Corporate
Services
Digitally Signed Jan 29, 20

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Jan 29, 20

Executive Summary

Part XI of the Municipal Act, 2001 (the Act) provides the authority for a municipality to collect property tax arrears through tax registration and public sale. On Thursday, April 30, 2020, the City of Greater Sudbury will conduct a sale of land by public tender (tax sale) in accordance with this legislation. Approximately thirty five (35) properties will be offered for sale. Tenders will be accepted until 3:00 pm on the day of the sale and tenders will be opened at 3:30 pm.

Background

On April 30, 2020, the City of Greater Sudbury will conduct a sale of land by public tender for properties with tax arrears, under the authority of the Municipal Act, 2001. The Finance Division will be coordinating the public sale in accordance with the Rules and Procedures as outlined in Provincial Legislation.

Approximately thirty five (35) properties will be offered for sale on April 30, 2020, and full payment in certified funds by the current property owner will be accepted up until 3:00 pm, after which tenders will be opened at 3:30 pm the same day and a successful tenderer declared.

Over the past few years, the number of properties offered for tax sale was approximately thirty five (35) on average. A majority of these properties have their outstanding taxes paid off prior to the deadline, resulting in only approximately five (5) to ten (10) properties proceeding to the tax sale.

The following outlines the procedures undertaken with respect to the collection of tax arrears:

- Regularly throughout each year, arrears notices are sent to the assessed owners of all properties on which realty taxes remain unpaid.
- Under the authority of the Municipal Act, 2001, for those properties which are two (2) years in arrears, a notice of upcoming legal action is sent to the owner.
- If payment is not received or if satisfactory repayment arrangements are not made, a tax arrears certificate representing a lien against the property is registered on title in accordance with the Municipal Act, 2001. Notices are sent by registered mail to the assessed owner and all parties having an interest in the property. An administration charge representing costs of collection is levied on the property.
- The property owner has one (1) year from the date of registration to pay the taxes and administration fee in full or enter into a tax extension agreement with the municipality.
- A final notice is sent by registered mail to the assessed owner and all interested parties 280 days after the lien is registered.

- If taxes still remain unpaid after the redemption period (one year), the Municipal Act, 2001 authorizes the Treasurer of the municipality to offer the property for public sale. For all of the properties proceeding to tax sale, the one year redemption period has expired.
- A notice is sent to the assessed owner by registered mail advising of pending tax sale action.
- All affected properties are advertised for sale in accordance with procedures outlined in the Municipal Act, 2001 and Ontario Regulation 181/03.

Tax Extension Agreements

The City of Greater Sudbury offers the option for a tax extension agreement as per Section 378 of the Municipal Act, 2001, for properties that have a tax arrears certificate registered on title. As per the Act this option is only available before the expiry of the one-year period following the date of the registration of the tax arrears certificate. The one-year redemption period has expired for all properties that will be available for sale.

Cancellation of Sale of Land by Public Tender

A property can only be cancelled from the sale of land by public tender if:

- the cancellation price is paid in full by certified funds or other acceptable methods as set out in the Municipal Act, 2001, prior to the registration of a Tax Deed; or
- by the treasurer of the municipality if in his or her opinion,
 - it is not in the best interests of the municipality to continue with the proceedings; or
 - because of some neglect, error or omission, it is not practical or desirable to continue proceedings.

Postponement of Sale of Land by Public Tender

The sale of a property may be postponed and conducted at a later date, if after advertising the treasurer is of the opinion that completing the sale would be impractical or would be unfair to the tenderers.

Summary

The process of the sale of land by public tender is a collection tool used by the City of Greater Sudbury to collect unpaid property tax arrears. This process is authorized under the Municipal Act, 2001. All aspects of this collection method are regulated by the Municipal Act, 2001, and the Municipal Tax Sale Rules as set out in Ontario Regulation 181/03.

For reference, attached is the information package and checklist (Appendix 'A') that will be provided to potential tenderers online and by hard copy as part of the tender package for each property advertised for sale. The information package and checklist provide the details about the sale, the process, obligations and provide a checklist to assist potential tenderers with submitting their tender(s).

Also provided is Ontario Regulation 181/03 (Municipal Tax Sale Rules) in Appendix 'B' which has to be adhered to throughout the process for the sale to be valid.



IMPORTANT INFORMATION REGARDING THE SALE OF LAND BY PUBLIC TENDER

Definitions:

All references to section numbers in this Information Sheet are references to the *Municipal Act, 2001*. Additionally, this Information Sheet uses certain terms which are defined in the *Municipal Act, 2001*, Part XI Section 371 as set out below:

“Cancellation Price” means an amount equal to all the tax arrears owing at any time in respect of the land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality after the treasurer becomes entitled to register a tax arrears certificate under section 373 or 373.1 in proceeding under this Part or in contemplation of proceeding under this Part and may include,

- a. legal fees and disbursements
- b. the cost of preparing an extension agreement under section 378,
- c. the costs of preparing any survey required to register a document under this Part, and
- d. a reasonable allowance for costs that may be incurred subsequent to advertising under section 379

“Tax Deed” means a tax deed prepared under section 379 and includes the title conferred by the registration of the tax deed.

“Notice of Vesting” means a notice of vesting prepared under section 379 and includes the title conferred by the registration of the notice of vesting.

Limitations:

The City of Greater Sudbury makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rests with the tenderers who are advised to investigate matters of interest prior to submitting a tender.

No verbal information or advice provided in furtherance or for the purposes of this tender by the Municipality or its staff will be binding on the Municipality. All written instructions, specifications and terms will be considered clear and complete unless written attention is called to any apparent discrepancies or incompleteness before the official closing.

Although this Information Sheet sets out as summary of the procedures, for your convenience, interested parties should reference the relevant sections of the *Municipal Act, 2001* as well as *Ontario Regulation 181/03* (Municipal Tax Sales Rules). These can be found online at <https://www.ontario.ca/laws>, among other locations.

In the event of a conflict between the contents of this document and the content of the *Municipal Act, 2001* or Regulations thereunder, the provisions of the *Municipal Act, 2001* and/or Regulation shall govern.

At any time prior to the registration of a Tax Deed the treasurer may halt proceedings and register a cancellation certificate as per section 382 of the *Municipal Act, 2001*, if in his or her opinion,

- a. it is not in the financial interests of the municipality to continue with the proceedings; or

- b. because of some neglect, error or omission, it is not practical or desirable to continue proceedings

The treasurer may postpone the tax sale and conduct it on a later date as per section 22 of the Regulation, if after advertising the treasurer is of the opinion that completing the sale would be impractical or would be unfair to the tenderers.

About Sale of Land by Public Tender (Tax Sale):

A Sale of Land by Public Tender (also referred to in this Information Sheet as a 'Tax Sale') is governed by the *Municipal Act, 2001*, and Ontario Regulation 181/03 (the "Municipal Tax Sales Rules"). By following the process set out in this legislation, the municipality has an opportunity to sell land which is in arrears of taxes in order to recover the arrears.

The Municipality registers a Tax Arrears Certificate on the title of a property in tax arrears for at least two (2) years. This certificate indicates that the property will be sold if the "Cancellation Price" is not paid within one year of registration of the certificate.

The Municipality advertises the property(s) for sale due to non-payment of taxes if the "Cancellation Price" is not paid within the one year registration of the certificate and no tax extension agreement has been executed.

Tender packages for properties being offered for Sale of Public Tender as part of a tax sale process will be made available for pickup through the City of Greater Tax Department on the 2nd Floor, Tom Davies Square, 200 Brady St, Sudbury. Municipal office hours are 8:30 a.m. to 4:30 p.m., Monday to Friday, holidays excluded. Documents will also be available online at <https://www.greatersudbury.ca/city-hall/tax-services/tax-sale-properties>, and may be printed and used.

All sealed tender envelopes received will be date and time stamped when received and will be retained unopened in a safe place by the treasurer.

All sealed tender and withdrawals will be opened at 3:30 p.m. local time on the closing date in a public place as indicated in the tender package and the advertisement.

After the opening of all sealed envelopes, the treasurer will examine all envelopes, tender to purchase forms and bid deposits. Any tender that does not meet all of the necessary criteria will be rejected.

All rejected tenders together with the tenderer's deposit will be returned by registered mail, along with an explanation as to the reason for its rejection to the mailing address provided on the Tender to Purchase Form submitted by the tenderer.

If two or more tenders of equal amount are tendered, then the tenderer who submitted the earlier tender will be deemed to be the higher tenderer.

The two highest tenders will be retained until the successful tenderer has met all commitments. The successful tenderer will be notified in writing by ordinary mail to the address provided on the Tender to Purchase Form, that the tenderer will be declared the successful purchaser if, within 14 days of the notice the balance reflected on the notice is paid in full. This balance will include the balance of the amount tendered, any taxes that may be applicable, such as land transfer tax and/or HST and accumulated taxes. As a result, the total amount required to close, including registration costs will exceed the tendered amount.

The tenderer will be required to retain a lawyer to act on their behalf to process the transaction and register the transfer.

If the highest tenderer does not remit the remaining funds as required within the 14 days of the notification, the highest tenderer's deposit is forfeited to the Municipality and the property is offered with the same terms and conditions to the second highest tenderer.

If the second highest tenderer does not remit the remaining funds as required, then the second highest tenderer's deposit is forfeited to the Municipality and the treasurer shall declare that there is no successful purchaser.

For every property advertised for Sale of Land by Public Tender that has a successful purchaser, the Municipality does obtain (prior to transfer) a statement from the Ministry of Energy, Northern Development and Mines that the land:

- a) is liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document creates a severance of the surface rights from the mining rights, or
- b) is not liable for a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document does not create a severance of the surface rights from the mining rights.

Note: This process is required by law and may increase the timeframe between the tender opening and the transfer of title.

Certain interests in the land will survive the tax sale. The Tax Deed provides the successful tenderer with title to the land free of all interests except:

- a) easements and restrictive covenants that run with the land,
- b) any estates and interests of the Crown in right of Canada or in right of Ontario,
- c) any interest or title acquired by adverse possession by abutting landowners before registration of the tax deed.

The Municipality does not provide vacant possession of any property purchased through a Sale of Land by Public Tender or provide keys to any building on the property on closing. If the property purchased through a Tax Sale is not vacant, it is the sole responsibility of the tenderer to secure possession at their own cost.

If no tenders are received or if no tenders remain for a property after the review process, then the treasurer shall declare that there is no successful purchaser.

If there is no successful purchaser, the Municipality has the option to register a notice of vesting in favour of the Municipality.

Additional Information About Sale of Land by Public Tender:

You should be aware that Sale of Land by Public Tender is not a regular real estate transaction. If you are participating in a sale of land by public tender **it is highly recommended that you seek independent legal advice prior to submitting a tender to ensure your interests are protected.**

The City of Greater Sudbury does not own or have access to the properties being advertised for Sale by Public Tender and cannot provide access to potential tenderers for viewing. All property is sold 'as is'.

All potential tenderers are advised to obtain all required information about the property prior to submitting a tender.

The onus is on the tenderer to conduct their own inquiries into such matters as zoning, access, work orders, environmental concerns, water, hydro and other arrears, building restrictions, access to public roads, title problems or the physical condition of the land and/or any structure(s) thereon.

The Municipality does not provide legal opinions or advice to potential tenderers in respect of issues which may arise in the context of a Sale of Land by Public Tender.

The Municipality makes no representations as to the quality of the title, the value or marketability of the property(s) being sold under Sale of Land by Public Tender. Under the provisions of the *Municipal Act, 2001*, the treasurer is not bound to inquire about or form any opinion of the value of the properties before conducting a sale and has no duty to obtain the highest or best price for the property(s).

The Municipality is not obligated to provide a survey or reference plan or any document other than a Tax Deed to a successful purchaser for any parcel of land being sold under tax sale.

Instructions for submitting a Tender to Purchase:

Below are the steps and instructions to be followed for completing tender and tender envelope and for submitting the tender in a Sale of Land by Public Tender. These must be followed to ensure these items are prepared and submitted in accordance with the Municipal Tax Sales Rules: Failure to comply can result in a rejection of the tender:

1. Tender Amount

The minimum tender amount for a property is the amount advertised as the 'Cancellation Price' (taxes, penalties, interest, administration charges etc) at time of advertising. Your tender amount must be this amount or more. Should your tender be accepted as the successful tender, you will also be required to pay 'accumulated taxes' being any further taxes, penalties, interest, administration charges etc that have accumulated since the time of advertising along with Land Transfer Tax and any applicable HST.

2. Tender to Purchase Form (Form 7)

All tenders must be on Tender to Purchase Form (Form 7).

- a. There is a Tender to Purchase (Form 7) in your tender package or one may be obtained at the website of the Government of Ontario Central Forms Repository under the listing for the Ministry of Municipal Affairs.
- b. All information is required to be typewritten or legibly handwritten in ink.
- c. Information must be accurately completed and provided in full.

3. Deposit (Must be at least 20% of your tender)

- a. Your tender must be accompanied by a deposit of at least 20 per cent (20%) of your tender amount.
- b. The deposit needs to be rounded to the 'higher cent' where applicable. (For example: if your tender is \$10,000.01 then 20% of \$10,000.01 equals \$2,000.002 and you must round up, so the deposit will be at least \$2,000.01).
- c. Deposit shall be made by way of money order/bank draft/certified cheque by a bank or authorized foreign bank within the meaning of section 2 of the *Bank of Act (Canada)*, a trust corporation registered under the *Loan and Trust Corporations Act* or credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*.
- d. The deposit must be made payable to **City of Greater Sudbury**.
- e. **IMPORTANT** – if you receive notification that your tender has been accepted, you must pay the full amount owing (as provided) within 14 days of the notice. **If payment in full is not received as required, for any reason, your deposit will be forfeited to the Municipality.**

4. Tender Envelope

The tender and deposit must be submitted in a sealed envelope, addressed to the treasurer. You must note on the face of the envelope:

- a) it is for a Sale of Land by Public Tender,
- b) set out a short description or municipal address of the land sufficient to permit the treasurer to identify the parcel of land to which the tender relates.

You may wish to use the envelope label provided in the tender package and affix it to your envelope.

5. Only One Parcel Per Tender to Purchase (Form 7)

Each tender shall relate to only one parcel of land. If you are submitting a tender(s) for more than one property, you must submit a separate Tender to Purchase (Form 7), each with its own separate deposit and in its own envelope for each property.

6. Terms and Conditions

No additional terms or conditions that are not provided for in the Municipal Sales Tax Rules will be accepted. If your Tender to Purchase (Form 7) includes any additional terms or conditions, it will be rejected.

7. Submitting a Tender(s)

- a. Tenders must be received no later than 3:00 p.m. local time (closing time) on Thursday, April 30, 2020 (closing date) at the Tax Department, 2nd Floor, Tom Davies Square, 200 Brady Street, Sudbury, Ontario P3E 3L9.
- b. Closing time will be determined in accordance with the clock on the computer at the Tax Department counter.
- c. Tenders may be submitted in person, by courier or by mail. Tenderers are solely responsible for the actual delivery of their tender. The tender must be received by the treasurer on or before the closing time on the closing date or it will be rejected. The treasurer will consider only the time of delivery to the Tax Department and will not consider the day and time of delivery of the tender to a courier, delivery service or Canada Post, etc. or whether it was delivered to the Municipality prior to the closing time, if it is not actually in the possession of the treasurer at the closing time.

Note: If sent by mail or the mailing address includes a Post Office Box, there is no guarantee the Municipality will collect their mail before 3:00 p.m. on the day of the sale.

8. Withdrawing a Tender(s)

A tender may be withdrawn if the tenderer delivers a written request to have their tender withdrawn to the treasurer by 3:00 p.m. local time on the closing date. Any tender withdrawals will be opened at the opening of the sealed envelopes. The delivery envelope and notice of withdrawal must:

- a. be delivered in a sealed envelope
- b. be addressed to the treasurer
- c. indicate that it is in relation to the Sale of Land for Public Tender and
- d. provide a short description or the municipal address of the land sufficient to permit the treasurer to identify the parcel of land to which the withdrawal letter relates.

9. Questions

All questions regarding this Sale of Land by Public Tender must be submitted in writing via email to taxdepartment@greatersudbury.ca or by fax to 705-671-9327.

Tender's Checklist for Submitting a Valid Tender

If your tender does not meet all of the below criteria, the Tender shall be rejected:

- ☐ Tender is submitted on the **Tender to Purchase Form (Form 7)** and:
 - a. Must be addressed to the person who holds the position of Treasurer under Section 286(2), even if their Title is different.
 - b. Shall be typewritten or legibly handwritten in ink. Ensure to complete each section.
 - c. Only deals with one parcel of land.
- ☐ Tender includes only the terms and conditions as provided for in the Municipal Tax Sale Rules.
- ☐ Tender amount is equal to or greater than the Minimum Tender Amount as advertised for the property.
- ☐ Tender is accompanied by a deposit of at least 20% of **your** tendered amount.
 - a. Deposit of at least 20% must always be rounded up the 'Higher' cent
ie: your tender \$10,000.01
20% of \$10,000.01 equals \$2,000.002 therefore your deposit must be at least \$2,000.01
- ☐ Deposit is made out in the favour of the City of Greater Sudbury.
- ☐ Deposit is made by way of money order/bank draft/certified cheque by a bank or authorized foreign bank within the meaning of section 2 of the *Bank of Act (Canada)*, a trust corporation registered under the *Loan and Trust Corporations Act* or credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*.
- ☐ Tender is submitted in a sealed envelope and sets out the following information whether on the envelope label provided or otherwise:
 - a. Addressed to the "treasurer"
 - b. Specifies it relates to a Tax Sale
 - c. Short description or municipal address of the land sufficient to allow the Treasurer to identify the parcel of land which the tender relates
- ☐ Only one Tender to Purchase Form (Form 7) per envelope.
- ☐ Your tender(s) must be received in the office of City of Greater Sudbury, Tax Department, Attn: City Treasurer, 2nd Floor, Tom Davies Square, 200 Brady Street, PO Box 5555, Stn 'A', Sudbury, ON, P3A 4S2, before 3:00 p.m. local time, Thursday, April 30, 2020.

***If you have not met all of the above criteria,
the Tender will be rejected!***

Municipal Act, 2001

ONTARIO REGULATION 181/03 MUNICIPAL TAX SALES RULES

Consolidation Period: From January 1, 2018 to the [e-Laws currency date](#).

Last amendment: 571/17.

Legislative History: 580/06, 571/17.

This is the English version of a bilingual regulation.

CONTENTS

[PART I](#)

INTERPRETATION AND FORMS

- [1.](#) Definitions
- [2.](#) Public sale of land
- [3.](#) Required information on documents
- [3.1](#) Matters prescribed for purposes of s. 381 (3) of the Act
- [4.](#) Forms

[PART II](#)

SALE BY PUBLIC TENDER

- [5.](#) Advertisement
- [6.](#) Tender
- [7.](#) Receipt of tender
- [8.](#) Withdrawn tender
- [9.](#) Opening of tenders
- [10.](#) Notice of vesting
- [11.](#) Two remaining tenders
- [12.](#) One remaining tender

[PART III](#)

SALE BY PUBLIC AUCTION

- [13.](#) Advertisement
- [14.](#) Auctioneer
- [15.](#) Duties of auctioneer
- [16.](#) Highest bidder is purchaser
- [17.](#) Failure to pay
- [18.](#) No bids
- [19.](#) Receipt
- [20.](#) Auction closed
- [21.](#) List

[PART IV](#)

GENERAL

- [22.](#) Postponement of sale
- [22.1](#) Returning tenders
- [23.](#) Registration
- [24.](#) Condition
- [25.](#) Method of payment
- [26.](#) Forfeited funds
- [27.](#) Transition, certificate registered before January 1, 2018
- [Schedule 1](#) Tax arrears certificate
- [Schedule 2](#) Tax arrears cancellation certificate
- [Schedule 3](#) Tax deed
- [Schedule 4](#) Notice of vesting
- [Schedule 5](#) Forms

PART I

INTERPRETATION AND FORMS

Definitions

1. In this Regulation,

“accumulated taxes” means real property taxes that have accumulated with respect to a parcel of land from the first day of advertising of the parcel for sale by public sale until the day a successful purchaser is declared; (“impôts accumulés”)

“board” means a board described in subsection 371 (2) of the Act. (“conseil”) O. Reg. 181/03, s. 1.

Public sale of land

2. A public sale of land under the Act shall be conducted in accordance with this Regulation. O. Reg. 181/03, s. 2.

Required information on documents

3. (1) A tax arrears certificate referred to in subsection 373 (1) or 373.1 (1) of the Act shall contain the information set out in Schedule 1. O. Reg. 181/03, s. 3 (1); O. Reg. 571/17, s. 1 (1).

(2) A tax arrears cancellation certificate referred to in subsection 375 (2), 378 (6) or 382 (3) or (6) of the Act or subsection 22 (2) of this Regulation shall contain the information set out in Schedule 2. O. Reg. 181/03, s. 3 (2); O. Reg. 580/06, s. 1.

(3) A tax deed and the statement related to it, as required by clause 379 (5) (a) and subsection 379 (6) of the Act, shall contain the information set out in Schedule 3. O. Reg. 181/03, s. 3 (3); O. Reg. 571/17, s. 1 (2).

(4) A notice of vesting and the statement related to it, as required by clause 379 (5) (b) and subsection 379 (6) of the Act, shall contain the information set out in Schedule 4. O. Reg. 181/03, s. 3 (4); O. Reg. 571/17, s. 1 (2).

Matters prescribed for purposes of s. 381 (3) of the Act

3.1 The matters described in subparagraphs 5 (i), (ii), (iii) and (v) of Schedule 3 and subparagraphs 6 (i), (ii), (iii) and (v) of Schedule 4 are prescribed for the purposes of subsection 381 (3) of the Act. O. Reg. 571/17, s. 2.

Forms

4. (1) The forms set out in the Table to Schedule 5 are prescribed as required forms for the purposes indicated in the Table. O. Reg. 571/17, s. 3.

(2) The forms prescribed by subsection (1) are the forms that are available on the website of the Government of Ontario Central Forms Repository under the listing for the Ministry of Municipal Affairs. O. Reg. 571/17, s. 3.

PART II SALE BY PUBLIC TENDER

Advertisement

5. (1) If the treasurer conducts a sale by public tender, the advertisement required by clause 379 (2) (b) or clause 379 (2.0.1) (b) of the Act, as the case may be, shall comply with this section. O. Reg. 571/17, s. 4.

(2) The treasurer shall advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, if there is no such newspaper, post a notice in the municipal office and one other prominent place in the municipality. O. Reg. 571/17, s. 4.

(3) The following rules apply to advertisements under subsection (2):

1. The advertisement in *The Ontario Gazette* shall be in Form 6.

2. If the land is advertised for sale in a newspaper,

i. during the first week, the advertisement in the newspaper shall be in Form 6,

ii. during the second, third and fourth weeks, the advertisement shall either be in Form 6 or shall contain the information set out in subsection (4), and

iii. if the advertisement is not in Form 6 during one or more of the weeks described in subparagraph ii, the treasurer shall make a copy of the advertisement in Form 6 available on a website of the treasurer's choosing during those weeks that the advertisement is not in Form 6.

3. If the land is advertised for sale by the posting of a notice, the notice shall be in Form 6. O. Reg. 571/17, s. 4.

(4) If Form 6 is not used for a newspaper advertisement in one or more of the weeks described in subparagraph 2 ii of subsection (3), the advertisement shall contain the following information during those weeks that the advertisement is not in Form 6:

1. The name of the municipality or board.

2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.

3. The deadline for receiving tenders.

4. The minimum tender amount (*set out the cancellation price as of the first day of advertising*).

5. The following statements:

- i. This sale is governed by the *Municipal Act, 2001* and the Municipal Tax Sales Rules made under that Act.
- ii. Further information about this matter is available online at (*website address*), or you may contact (*contact information for the municipality or board, such as address, email address, telephone number, and one or more contact names*). O. Reg. 571/17, s. 4.

(5) An advertisement may relate to the sale of any number of parcels of land. O. Reg. 571/17, s. 4.

(6) The treasurer shall allow at least seven days after the publication of the last advertisement in *The Ontario Gazette* or a newspaper, or where there is no newspaper, the posting of the notice, for the submission of tenders. O. Reg. 571/17, s. 4.

Tender

6. (1) A tender shall be in Form 7 and shall be,

- (a) typewritten or legibly handwritten in ink;
- (b) accompanied by a deposit of at least 20 per cent of the tender amount, which deposit shall be made by way of money order or by way of bank draft or cheque certified by a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada), a trust corporation registered under the *Loan and Trust Corporations Act* or a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*;
- (c) submitted in a sealed envelope which indicates on it that it is a tax sale and provides a short description or municipal address of the land sufficient to permit the treasurer to identify the parcel of land to which the tender relates; and
- (d) addressed to the treasurer. O. Reg. 181/03, s. 6 (1); O. Reg. 571/17, s. 5.

(2) A tender shall relate to only one parcel of land. O. Reg. 181/03, s. 6 (2).

Receipt of tender

7. (1) On receiving an envelope identified as containing a tender, the treasurer shall mark on it the time and date on which it was received and shall retain it unopened in a safe place. O. Reg. 181/03, s. 7 (1).

(2) For the purposes of this Part, where two or more tenders are equal, the tender that was received earlier shall be deemed to be the higher. O. Reg. 181/03, s. 7 (2).

Withdrawn tender

8. (1) A tender is withdrawn if the tenderer's written request to have the tender withdrawn is received by the treasurer before 3 p.m. local time on the last date for receiving tenders. O. Reg. 181/03, s. 8 (1).

(2) The envelope containing a withdrawn tender shall be opened at the time of the opening of the sealed envelopes. O. Reg. 181/03, s. 8 (2).

Opening of tenders

9. (1) The treasurer, at a place in the municipality that is open to the public, shall open the sealed envelopes containing the tenders as soon as possible after 3 p.m. local time on the last date for receiving tenders. O. Reg. 181/03, s. 9 (1).

(2) The sealed envelopes shall be opened in the presence of at least one person who did not submit a tender, which person may be a municipal employee. O. Reg. 181/03, s. 9 (2).

(3) After opening the sealed envelopes, the treasurer shall examine their contents and shall reject every tender that,

- (a) is not equal to or greater than the minimum tender amount as shown in the advertisement;
- (b) does not comply with section 6;
- (c) includes any term or condition not provided for in this Regulation; or
- (d) has been withdrawn as set out in subsection 8 (1). O. Reg. 181/03, s. 9 (3).

(4) After complying with subsection (3), the treasurer shall reject all but the two highest of the remaining tenders. O. Reg. 181/03, s. 9 (4).

(5) Every rejected tender shall be returned to the tenderer together with the tenderer's deposit, if any, and a statement of the reason for rejection. O. Reg. 181/03, s. 9 (5).

Notice of vesting

10. If, after complying with section 9, no tenders remain, the treasurer shall declare that there is no successful purchaser. O. Reg. 181/03, s. 10.

Two remaining tenders

11. (1) If, after complying with section 9, two tenders remain, the treasurer shall immediately notify the higher tenderer, by ordinary mail sent to the address shown in the tender, that the tenderer will be declared to be the successful purchaser if, within 14 days of the mailing of the notice, the balance of the amount tendered, any taxes that may be applicable, such as a land transfer tax, and the accumulated taxes are paid, in cash, to the treasurer. O. Reg. 181/03, s. 11 (1); O. Reg. 571/17, s. 6.

(2) If the higher tenderer makes the payment as set out in subsection (1), the treasurer shall declare the tenderer to be the successful purchaser. O. Reg. 181/03, s. 11 (2).

(3) If the higher tenderer does not make the payment as set out in subsection (1), the tenderer's deposit shall be immediately forfeited to the municipality and the treasurer shall offer the parcel of land to the lower tenderer in accordance with section 12. O. Reg. 181/03, s. 11 (3).

One remaining tender

12. (1) If, after complying with section 9, only one tender remains or if, in accordance with subsection 11 (3), the treasurer is required to offer the parcel of land to the lower tenderer, the treasurer shall immediately notify the tenderer, by ordinary mail sent to the address shown in the tender, that the tenderer will be declared to be the successful purchaser if, within 14 days of the mailing of the notice, the balance of the amount tendered, any taxes that may be applicable, such as a land transfer tax, and the accumulated taxes are paid, in cash, to the treasurer. O. Reg. 181/03, s. 12 (1); O. Reg. 571/17, s. 7.

(2) If the tenderer makes the payment as set out in subsection (1), the treasurer shall declare the tenderer to be the successful purchaser. O. Reg. 181/03, s. 12 (2).

(3) If the tenderer does not make the payment as set out in subsection (1),

(a) the treasurer shall declare that there is no successful purchaser and may register a notice of vesting in the name of the municipality; and

(b) the tenderer's deposit shall be immediately forfeited to the municipality. O. Reg. 181/03, s. 12 (3).

PART III SALE BY PUBLIC AUCTION

Advertisement

13. (1) If the treasurer conducts a sale by public auction, the advertisement required by clause 379 (2) (b) or clause 379 (2.0.1) (b) of the Act, as the case may be, shall comply with this section. O. Reg. 571/17, s. 8.

(2) The treasurer shall advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, if there is no such newspaper, post a notice in the municipal office and one other prominent place in the municipality. O. Reg. 571/17, s. 8.

(3) The following rules apply to advertisements under subsection (2):

1. The advertisement in *The Ontario Gazette* shall be in Form 8.

2. If the land is advertised for sale in a newspaper,

i. during the first week, the advertisement in the newspaper shall be in Form 8,

ii. during the second, third and fourth weeks, the advertisement shall either be in Form 8 or shall contain the information set out in subsection (4), and

iii. if the advertisement is not in Form 8 during one or more of the weeks described in subparagraph ii, the treasurer shall make a copy of the advertisement in Form 8 available on a website of the treasurer's choosing during those weeks that the advertisement is not in Form 8.

3. If the land is advertised for sale by the posting of a notice, the notice shall be in Form 8. O. Reg. 571/17, s. 8.

(4) If Form 8 is not used for a newspaper advertisement in one or more of the weeks described in subparagraph 2 ii of subsection (3), the advertisement shall contain the following information during those weeks that the advertisement is not in Form 8:

1. The name of the municipality or board.

2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.

3. The time and place of the auction.

4. The minimum bid amount (*set out the cancellation price as of the first day of advertising*).

5. The following statements:

i. This sale is governed by the *Municipal Act, 2001* and the Municipal Tax Sales Rules made under that Act.

ii. Further information about this matter is available online at (*website address*), or you may contact (*contact information for the municipality or board, such as address, email address, telephone number, and one or more contact names*). O. Reg. 571/17, s. 8.

(5) An advertisement may relate to the sale of any number of parcels of land. O. Reg. 571/17, s. 8.

(6) The treasurer shall allow at least seven days after the publication of the last advertisement in *The Ontario Gazette* or a newspaper, or where there is no newspaper, the posting of the notice, before holding the auction. O. Reg. 571/17, s. 8.

(7) The auction shall be held at such place in the upper-tier municipality or single-tier municipality or, in the case of unorganized territory, in the territorial district in which the land is located as the treasurer may name in the advertisement. O. Reg. 571/17, s. 8.

Auctioneer

14. (1) The treasurer or such other person as the treasurer may name shall act as auctioneer. O. Reg. 181/03, s. 14 (1).

(2) The auctioneer shall open the auction by declaring the tax sale officially open and by reading out sections 15, 16, 17 and 18. O. Reg. 181/03, s. 14 (2).

Duties of auctioneer

15. For each parcel of land to be sold during the auction, the auctioneer shall,

- (a) in opening or reopening the bidding on the parcel, state the minimum bid as set out in the advertisement;
- (b) acknowledge each bidder, repeat each bid made and call for higher bids; and
- (c) if no higher bid is made, repeat the last bid three times and if there is still no higher bid, acknowledge the highest bidder. O. Reg. 181/03, s. 15.

Highest bidder is purchaser

16. The highest bidder shall be declared to be the successful purchaser if the bidder immediately pays the amount bid, any taxes that may be applicable, such as a land transfer tax, and the accumulated taxes, in cash, to the auctioneer. O. Reg. 181/03, s. 16; O. Reg. 571/17, s. 9.

Failure to pay

17. If the highest bidder fails to make the payment as set out in section 16 and the bidding has not been previously reopened under this Regulation, the auctioneer shall immediately reopen the bidding. O. Reg. 181/03, s. 17.

No bids

18. If no bid is made for a parcel of land after the opening of the bidding or if, after the reopening of the bidding under section 17, no bid is made or there is no successful purchaser, the auctioneer shall declare that there is no successful purchaser. O. Reg. 181/03, s. 18.

Receipt

19. The auctioneer shall issue a receipt to the successful purchaser for the amounts received under section 16 and the receipt shall include a legal description of the parcel of land and the name of the purchaser and the name in which the tax deed will be registered. O. Reg. 181/03, s. 19.

Auction closed

20. The auctioneer shall declare the auction closed upon completion of the bidding on all the parcels of land offered for sale in the auction. O. Reg. 181/03, s. 20.

List

21. The auctioneer shall prepare and keep a list showing each parcel of land offered for sale in the auction and the name and address of the successful purchaser or, where there is no successful purchaser, that there is no successful purchaser. O. Reg. 181/03, s. 21.

PART IV GENERAL

Postponement of sale

22. (1) If, after a public sale under the Act is advertised in accordance with section 5 or 13, as the case may be, the treasurer is of the opinion that completing the sale would be impractical or would be unfair to the bidders or tenderers, the treasurer may postpone the sale and conduct it on a later date after readvertising it in accordance with section 5 or 13, as the case may be. O. Reg. 580/06, s. 3; O. Reg. 571/17, s. 10.

(2) If a public sale is postponed under subsection (1) and the rescheduled sale does not occur within 90 days after the date that was originally advertised for the sale, the treasurer shall immediately register a tax arrears cancellation certificate. O. Reg. 580/06, s. 3.

(3) Subsection (2) does not prevent the treasurer from registering a new tax arrears certificate and proceeding under Part XI of the Act. O. Reg. 580/06, s. 3.

Returning tenders

22.1 If the treasurer postpones or cancels a sale by public tender, the treasurer shall,

- (a) open the sealed envelopes, if he or she has not already done so; and
- (b) return to the tenderers any tenders that he or she retains together with the appropriate deposits, if any, and a statement setting out the reason for the return. O. Reg. 580/06, s. 3.

Registration

23. As soon as possible after a successful purchaser is declared in a sale under the Act, the treasurer shall prepare and register the necessary documents in accordance with the Act. O. Reg. 181/03, s. 23.

Condition

24. Before registering a tax deed or a notice of vesting in respect of land that is in a local municipality referred to in Schedule 2 to Regulation 995 of the Revised Regulations of Ontario, 1990 (Forms and Records) made under the *Registry Act*, the treasurer shall obtain a statement in Form 9 signed by an authorized employee of the Ministry of Northern Development and Mines. O. Reg. 181/03, s. 24; O. Reg. 580/06, s. 4.

Method of payment

25. Subject to clause 6 (1) (b), any payment required by this Regulation to be made in cash may be made by way of cash or money order or by way of bank draft or cheque certified by a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada), a trust corporation registered under the *Loan and Trust Corporations Act* or a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*. O. Reg. 181/03, s. 25; O. Reg. 571/17, s. 11.

Forfeited funds

26. All deposits forfeited under this Regulation to a municipality shall form part of the general funds of the municipality. O. Reg. 181/03, s. 26.

Transition, certificate registered before January 1, 2018

27. If, before January 1, 2018, a tax arrears certificate is registered in respect of land, this Regulation as it read on December 31, 2017 applies in respect of the proceedings or other steps that may be taken as a result of the registration of that certificate. O. Reg. 571/17, s. 12.

28. OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 181/03, s. 28.

SCHEDULE 1 TAX ARREARS CERTIFICATE

A tax arrears certificate shall contain the following information:

1. The name of the municipality or board.
2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.
3. A statement by the treasurer of the municipality verifying,
 - (i) the amount of tax arrears owing on December 31 of the relevant year and that at least part of the amount plus any additional real property taxes and costs are still owing to the municipality or board, and
 - (ii) that the land described in the certificate will be sold by public sale if the cancellation price is not paid within (*choose one year or 90 days, as appropriate*) following the date of the registration of the certificate.
4. The name of the treasurer and the date of the statement.
5. A notice setting out,
 - (i) that the time period for paying the cancellation price may be extended if, before the expiry of the (*choose one-year or 90-day, as appropriate*) period, the municipality or board enters into an extension agreement with any owner of the land, the spouse of any owner, any mortgagee, any tenant in occupation of the land or any person the treasurer is satisfied has an interest in the land,
 - (ii) that the cancellation price will be calculated as of the date that the amount of the tax arrears is paid to the municipality or board and may be higher than the amount set out in the certificate,
 - (iii) that, if there is no successful purchaser at the public sale, the land, upon registration of a notice of vesting, will vest in the municipality or board, and
 - (iv) the name and address of the municipality or board to which any inquiries may be directed, including an address for service.
6. A legal description of the land.

O. Reg. 181/03, Sched. 1; O. Reg. 580/06, s. 6; O. Reg. 571/17, s. 13.

SCHEDULE 2
TAX ARREARS CANCELLATION CERTIFICATE

1. A tax arrears cancellation certificate referred to in subsection 375 (2), 378 (6) or 382 (3) or (6) of the Act or subsection 22 (2) of this Regulation shall, in relation to a tax arrears certificate that was registered under section 373 or 373.1 of the Act, contain the following information:

1. The name of the municipality or board.
2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.
3. A statement by the treasurer verifying that the tax arrears certificate registered on (*date of registration*) as (*instrument number*) is cancelled in respect of the land described in the tax arrears cancellation certificate.
4. If applicable, a statement by the treasurer verifying that the cancellation price was paid on (*date of payment*).
5. If applicable, a statement by the treasurer verifying that the cancellation price remains unpaid and a new tax arrears certificate may be registered in this matter.
6. The name of the treasurer and the date of the statement.
7. The name and address of the municipality or board to which any inquiries may be directed, including an address for service.
8. A legal description of the land.

2. In addition to the information set out in section 1 of this Schedule, a tax arrears cancellation certificate shall, in relation to a tax arrears certificate that was registered under section 373 of the Act, contain a statement by the treasurer stating, if applicable, that,

- (a) the cancellation price was paid by a person, other than the owner or spouse of the owner of the land, who was entitled to receive notice under subsection 374 (1) of the *Municipal Act, 2001* or an assignee of such person; and
- (b) as a result of the payment of the cancellation price, (*name and address of person*) has a lien on the land for (*amount of lien*), except in the circumstances where subsection 375 (3.1) of the *Municipal Act, 2001* applies to the land.

O. Reg. 571/17, s. 14.

SCHEDULE 3
TAX DEED

A tax deed and the statement related to it, as required by clause 379 (5) (a) and subsection 379 (6) of the Act, shall contain the following information:

1. The name of the municipality or board.
2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.
3. A statement that, by virtue of the *Municipal Act, 2001*, the registration of the tax deed vests in the transferee an estate in fee simple in the land together with all rights, privileges and appurtenances and free from all estates and interests except,
 - (i) easements and restrictive covenants that run with the land,
 - (ii) any estates and interests of the Crown in right of Canada or in right of Ontario, other than an estate or interest in the land that,
 - (A) is vested in the Crown in right of Ontario because of an escheat or forfeiture as a result of the dissolution of a corporation, or
 - (B) belongs to the Crown in right of Ontario as a result of the death of an individual who did not have any lawful heirs, and
 - (iii) any interest or title acquired by adverse possession by abutting landowners before registration of the tax deed.
4. A statement that the registration of the tax deed vests in the transferee any interest in or title to adjoining land acquired by adverse possession before the registration of the tax deed if the person originally acquiring the interest or title did so as a consequence of possession of the land described in the tax deed.
5. A statement by the treasurer verifying that,
 - (i) a tax arrears certificate was registered under (*choose section 373 or section 373.1, as appropriate*) of the *Municipal Act, 2001* as (*instrument number*) with respect to the land at least (*choose one year or 90 days, as appropriate*) before the land was advertised for sale,
 - (ii) notices were sent and statutory declarations were made in substantial compliance with the *Municipal Act, 2001* and the regulations under that Act,

- (iii) the cancellation price was not paid within (*choose one year or 90 days, as appropriate*) following the date of the registration of the tax arrears certificate,
 - (iv) there was no subsisting extension agreement when the land was advertised for sale,
 - (v) the land was advertised for sale in substantial compliance with the *Municipal Act, 2001* and the regulations under that Act, and
 - (vi) if applicable, the (*name of municipality*) passed a by-law under subsection 379 (3) of the *Municipal Act, 2001* excluding mobile homes from the sale of the land.
6. If applicable, a statement by the treasurer verifying that the Ministry of Northern Development and Mines has advised the municipality that the land described in this tax deed (*choose (i) or (ii) as appropriate*),
 - (i) is liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document creates a severance of the surface rights from the mining rights, or
 - (ii) is not liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document does not create a severance of the surface rights from the mining rights.
 7. The name and address of the municipality or board to which any inquiries may be directed, including an address for service.
 8. A legal description of the land.

O. Reg. 181/03, Sched. 3; O. Reg. 580/06, s. 8; O. Reg. 571/17, s. 15.

SCHEDULE 4 NOTICE OF VESTING

A notice of vesting and the statement related to it, as required by clause 379 (5) (b) and subsection 379 (6) of the Act, shall contain the following information:

1. The name of the municipality or board.
2. The street address and municipality in which the land is located or, if there is no street address, the location of the land.
3. A statement that registration is made under the *Municipal Act, 2001* and, under that Act, the municipality or board attempted to sell the land described in the notice of vesting for arrears of taxes but could not find a successful purchaser and, accordingly, the registration of the notice vests the land described in the notice of vesting in the municipality or board.
4. A statement that, by virtue of the *Municipal Act, 2001*, the registration of the notice of vesting vests in the municipality or board an estate in fee simple in the land together with all rights, privileges and appurtenances and free from all estates and interests, including all estates and interests of the Crown in right of Ontario, except,
 - (i) easements and restrictive covenants that run with the land, including those for the benefit of the Crown in right of Ontario,
 - (ii) any estates and interests of the Crown in right of Canada, and
 - (iii) any interest or title acquired by adverse possession by abutting landowners, including the Crown in right of Ontario, before registration of the notice of vesting.
5. A statement that the registration of the notice of vesting vests in the municipality or board any interest in or title to adjoining land acquired by adverse possession before the registration of the notice if the person originally acquiring the interest or title did so as a consequence of possession of the land described in the notice.
6. A statement by the treasurer verifying that,
 - (i) a tax arrears certificate was registered under (*choose section 373 or section 373.1, as appropriate*) of the *Municipal Act, 2001* as (*instrument number*) with respect to the land at least (*choose one year or 90 days, as appropriate*) before the land was advertised for sale,
 - (ii) notices were sent and statutory declarations were made in substantial compliance with the *Municipal Act, 2001* and the regulations under that Act,
 - (iii) the cancellation price was not paid within (*choose one year or 90 days, as appropriate*) following the date of the registration of the tax arrears certificate,
 - (iv) there was no subsisting extension agreement when the land was advertised for sale,
 - (v) the land was advertised for sale in substantial compliance with the *Municipal Act, 2001* and the regulations under that Act, and

- (vi) if applicable, (*name of municipality*) passed a by-law under subsection 379 (3) of the *Municipal Act, 2001* excluding mobile homes from the sale of the land.
7. If applicable, a statement by the treasurer verifying that the Ministry of Northern Development and Mines has advised the municipality that the land described in this notice (*choose (i) or (ii) as appropriate*),
- (i) is liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this notice creates a severance of the surface rights from the mining rights, or
 - (ii) is not liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this notice does not create a severance of the surface rights from the mining rights.
8. The name and address of the municipality or board to which any inquiries may be directed, including an address for service.
9. A legal description of the land.

O. Reg. 181/03, Sched. 4; O. Reg. 580/06, s. 9; O. Reg. 571/17, s. 16.

SCHEDULE 5 FORMS

Column 1 Form	Column 2 Title	Column 3 Date	Column 4 Purpose for which form is used
1	Notice of Registration of Tax Arrears Certificate	January 2018	a notice required by section 374 of the Act
2	Statutory Declaration Regarding Sending of Notice of Registration of Tax Arrears Certificate	January 2018	a statutory declaration required by subsection 374 (3) of the Act
3	Final Notice of Registration of Tax Arrears Certificate Under Section 373 of the Act	January 2018	a final notice required by subsection 379 (1) of the Act
4	Statutory Declaration Regarding Sending of Final Notice	January 2018	a statutory declaration required by subsection 379 (2) of the Act
5	Payment into Court – Statement of Facts	January 2018	the statement required by subsection 380 (2) of the Act
6	Sale of Land by Public Tender	January 2018	form of advertisement required by paragraphs 1, 2 and 3 of subsection 5 (3) of this Regulation
7	Tender to Purchase	January 2018	form of tender required by subsection 6 (1) of this Regulation
8	Sale of Land by Public Auction	January 2018	form of advertisement required by paragraphs 1, 2 and 3 of subsection 13 (3) of this Regulation
9	Mining Act Information	January 2018	a statement required by section 24 of this Regulation
10	Notice of Readvertisement	January 2018	a notice required by subsection 380.1 (2) of the Act

O. Reg. 571/17, s. 17.

FORMS 1-10 REVOKED: O. Reg. 571/17, s. 18.

Français

[Back to top](#)