

## **ONTARIO REGULATION 181/03**

made under the

### **MUNICIPAL ACT, 2001**

#### **MUNICIPAL TAX SALES RULES**

##### **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.