

September 13, 2016

To: City Council

From: Rod Risling, Branch Manager, Assessment and Taxation

Subject: **Property Tax Penalty Structure Review**

---

The following memo is in response to a motion made by Councillor Anderson and passed by Executive Committee. The motion read:

That Administration provide a memo to Council, before the September 20, 2016 City Council meeting explaining the City of Edmonton's current late property tax payment penalty, along with possible less punitive penalty structures that Council could consider.

To address this inquiry in a respective manner, the analysis below will restrict itself to penalties applied during the initial tax year only, and does not discuss subsequent year arrear penalties or supplemental notice penalties. Additional information on these topics can also be provided at Council's request.

#### **Legal Perspective**

Section 344 of the Municipal Government Act provides the authority to set a tax penalty for unpaid taxes after the stated deadline. The only restriction within the legislation is the requirement to provide the tax notice at least 30 days in advance of the deadline where a penalty is applied. No restrictions on the amount of penalty are discussed within the MGA, but the upper limits may be prescribed under section 347 of the Criminal Code, which sets a maximum interest rate at 60% per annum. Whether restrictions of interest rates apply to tax penalties has yet to be tested in a court of law.

#### **Policy Perspective**

From a policy perspective, implementing a property tax penalty structure serves two major purposes. The first is to ensure compliance with the tax deadline, thereby improving collection rates and defining clear periods of revenue intake for budgeting purposes. The second is to ensure all taxpayers are treated fairly and equitably - a property taxpayer who pays two months late, for example, is not treated in the same manner as a taxpayer who pays on time.

Tax penalties also have a budgetary component. If tax penalty revenues are decreased, then an equivalent amount of revenue would need to be collected through the tax base. This will be analyzed in more detail subsequently.

### Current Property Tax Penalty Structure

The City of Edmonton's current property tax penalty structure results in a 14% penalty between the tax deadline of June 30 and the end of that same year. This penalty is applied in the following manner:

Municipality	Deadline	Penalty Structure	Annual Total
City of Edmonton	June 30	July 1 - 7% September 1 - 3.5% November 1 - 3.5%	14%

### Historical Rate

In 2012, the City of Edmonton moved away from its previous tax structure to the current model. Before that time, the tax penalty structure was as follows:

Municipality	Deadline	Penalty Structure	Annual Total
City of Edmonton (1993 - 2011)	June 30	July 1 - 6% 1% per month thereafter	11%

In making this change, Council considered the approach across Alberta and brought their penalty structure closer in line with Calgary's structure. The increase in penalties was considered to be reasonable considering penalty levels across the province.

### City of Edmonton Context

Under the City of Edmonton's current tax penalty structure, compliance payment rates as of June 30 are close to 96%, with this number improving to 98% by year-end. These rates have remained fairly stable over the past five years.

In 2015, current penalties accounted for an additional \$7.4M in City revenue. Over the past five years, this revenue broke down as follows:

Year	July 1 Penalty Revenue	Sept. 1 Penalty Revenues	Nov. 1 Penalty Revenues	Total
2016	\$5,600,000	\$1,700,000	Pending	\$7,300,000*
2015	\$4,900,000	\$1,300,000	\$1,200,000	\$7,400,000
2014	\$4,900,000	\$1,300,000	\$1,100,000	\$7,300,000
2013	\$4,500,000	\$1,400,000	\$1,200,000	\$7,000,000
2012	\$3,900,000	\$1,300,000	\$1,100,000	\$6,300,000

\* Total excludes November Penalty Revenue

### Provincial Comparison

Edmonton's tax penalty structure, with an annual total of 14%, is comparable to other jurisdictions across Alberta. However, some municipalities apply their penalties differently. Considering the examples below, a non-weighted average penalty of 5% is levied at the tax deadline, while the overall annual total average is 14%. The following chart breaks down some key municipal rates for comparison (alphabetical):

Municipality	Deadline	Penalty Structure	Annual Total
<b>Calgary</b>	June 30	July 1 - 7% October 1 - 7%	14%
<b>Edmonton</b>	<b>June 30</b>	<b>July 1 - 7%</b> <b>September 1 - 3.5%</b> <b>November 1 - 3.5%</b>	<b>14%</b>
<b>Fort Saskatchewan</b>	June 30	July 1 - 3% August 1 - 6% September 1 - 9%	18%
<b>Grande Prairie</b>	June 30	July 1 - 6% September 1 - 6%	12%
<b>Lethbridge</b>	June 30	July 1 - 7% Monthly Penalty - 1%	12%
<b>Leduc</b>	June 30	July 1 - 6% Monthly Penalty - 2%	16%
<b>Medicine Hat</b>	June 30	July 1 - 3.65% Monthly Penalty - 0.52%	6.25%
<b>Red Deer</b>	June 30	July 1 - 7% September 7%	14%
<b>St. Albert</b>	June 30	July 1 - 3% August 1 - 6% October 1 - 9%	18%
<b>Strathcona County</b>	June 30	July 1 - 3% August 1 - 6% September 1 - 9%	18%
<b>Wood Buffalo</b>	June 30	July 1 - 3% September 1 - 7% November 1 - 3%	13%
<b>Average</b>		<b>5% at Deadline</b>	<b>14%</b>

## National Comparisons

There are a diverse set of approaches to tax penalties at a national level. This is partly due to the nature of the tax billing structure, with some municipalities billing taxes twice a year. Note that such an approach for Edmonton would require a significant overhaul to our current business process.

Penalties the day after the deadline range from 0.76% to 10%, with an average penalty of 3%. Annual penalties range from 7.5% to 18.75%, with an average annual penalty of 12%. These averages are unweighted and do not account for all penalty structures across Canada.

Municipality	Deadline	Penalty Structure	Annual Total
<b>Edmonton</b>	<b>June 30</b>	<b>July 1 - 7%</b> <b>September 1 - 3.5%</b> <b>November 1 - 3.5%</b>	<b>14%</b>
<b>Halifax</b>	Last Day of April Last Day of October	15% per annum	15%
<b>New Brunswick</b>	May 31	0.7591% per month (compounded)	9.5%
<b>Montreal</b>	March 1 June 1	14.92% per annum	14.92%
<b>Ottawa</b>	Mid-March Mid-June	1.25% after deadline 1.25% per month	10%
<b>Regina</b>	June 30	1.25% per month	7.5%
<b>Saskatoon</b>	June 30	1.25% per month	7.5%
<b>Toronto</b>	1st Business Day in March, April, May, July, August and September	1.25% after deadline 1.25% per month	10%
<b>Vancouver</b>	February 1 July 5	February 2- 5% July 6 - 5%	10%
<b>Victoria</b>	1st Working Day of July	10% after deadline	10%
<b>Winnipeg</b>	July 1	2.25% per month September 1 - 7.5%	18.75%
<b>Average</b>		<b>3% at Deadline</b>	<b>12%</b>

## **Considerations**

In reviewing the above data, a few major considerations should be kept in mind. These include matters related to compliance, ease of administration, and budget.

**Compliance:** In setting an appropriate penalty structure, the initial penalty should be sufficiently large to incite compliance from the majority of taxpayers, but not too large as to be considered unfair or unreasonable. In speaking directly with a few other municipalities, payment compliance rates tend to hover around 96% regardless of the tax penalty structure. With that said, it is difficult to ascertain the extent to which compliance in other municipalities is due to penalty rates relative to other factors, such as municipal advertising. This makes it difficult for Administration to predict the consequence of a lower initial tax penalty. If Council chooses to reduce the initial penalty, Administration would monitor compliance rates and bring any findings of note back to City Council.

**Ease of Administration:** In considering other approaches, ease of administration should be a factor. Adjusting the current tax process to a multiple tax notice system, for example, would require a significant overhaul of current business processes. Similarly, the City of Edmonton's current tax penalty system would not be capable of moving from a simple interest rate calculation to a compounding rate. Changes of this nature would require both time and additional budget to implement.

Any change will necessarily come with some additional cost as communications materials are updated, but these costs can be absorbed by the business area. At present, the City sends one tax notice in mid-May and a reminder notice in mid-August. This current mailing structure recommends itself against returning to the monthly penalty structure of 2011. For example, a penalty charge in both July and August may cause additional property owner frustration as their first notice of late payment is not delivered until mid-August.

**Budget:** One factor that can be easily measured is the effect of a penalty structure change on the City's budget. Using 2015 as an example, a 1% reduction in the July 1 penalty would result in a revenue reduction of \$700,000. This reduction would subsequently place a higher burden on the general tax base of an equivalent amount. In 2017, a 1% tax increase is projected to be equivalent to \$15 million. In this context, \$700,000 represents a one-time 0.05% tax increase.

**Other Considerations:** Aside from adjusting the tax penalty structure, the monthly payment program could also be more actively promoted. Accounts on the monthly payment program are not subject to tax penalties and are able to pay in a more uniform manner. Currently, about 115,000 accounts are on the monthly payment program and another 60,000 are paid by financial institutions on behalf of their customers. A more aggressive advertising campaign could be developed to encourage property owners to enroll in the monthly payment plan.

Changes to the MGA through Bill 21 could also improve the City processes by allowing communication with property owners through a digital portal, similar to a banking institution. Such a system would allow for easier promotion of particular programs, streamline monthly payment sign-up and make late-payment reminder notices more automated. Unfortunately, the current changes to the MGA have not met our expectations for electronic service delivery of assessment and taxation material, but we continue to advocate for this vision.

## **Summary**

Administration is open to Council adjusting the current tax penalty structure, but would advise against making major modifications that would require computer system changes or an overhauling of current business processes that would increase costs. Several options are presented below for Council's consideration. The approach in each option is different, and the rates themselves are open to discussion.

### Options for Consideration

The below table displays potential options for consideration. The approaches are different, and the penalty amounts are subject to Council's deliberation. Note that adjusting penalty rates will have a budget impact.

Option	Penalty Structure	Annual Total	Description	Budget Impact (2015)
1	July 1 - 3.5% September 1 - 7% November 1 - 3.5%	14%	This approach maintains the current annual total, but shifts the major penalty from July to September. This approach is similar to Winnipeg and Wood Buffalo.	(\$1,150,000)
2	July 1 - 3% September 1 - 6% November 1 - 9%	18%	This approach has a gradually increasing penalty as time goes on and is similar to the approach of St. Albert, Strathcona County and Fort Saskatchewan.	No Impact
3	July 1 - 5% September 1 - 4.5% November 1 - 4.5%	14%	This approach flattens out the penalties throughout the year, but still keeps the July penalty as the highest.	(\$700,000)
4	July 1 - 5% Sept. - Dec - 2.25%	14%	This approach returns to a monthly penalty, similar to Edmonton's approach before 2011, but also reduces the initial penalty from 7% to 5%.	(\$700,000)
5	July 1 - 3% September 1 - 4.5% November 1 - 4.5%	12%	This approach lowers the total tax penalty overall and brings the deadline penalty and the annual penalty in line with the average of nation-wide municipalities included within the above table.	(\$2,100,000)

*Note: Option 4 has monthly penalties starting in September. Administration does not recommend implementing an August penalty as the earliest late payment notices can be mailed would fall after August 1.*

RR/as

c: Linda Cochrane, City Manager  
Corporate Leadership Team  
Anne Jarman, City Solicitor