RECOMMENDATION


EXECUTIVE SUMMARY

Section 110 (6) of the Municipal Act,2001 allows for the Council of a municipality to pass a By-Law to exempt from taxation for municipal and school board purposes, land or a portion of it on which municipal capital facilities are or will be located. The current By-Law 05-106, as well as our process for notifications, does not fully meet the requirements of the Municipal Property Assessment Corporation (MPAC) Policy Branch.

Alternatives for Consideration – Not Applicable.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Requests for tax exemptions will be processed faster by MPAC, reducing the need for the City to pay the taxes up front and then have to collect the overpayment back from landlords.

Staffing: None.

Legal: None.

HISTORICAL BACKGROUND (Chronology of events)

City of Hamilton By-Law 05-106 was originally approved by City Council to provide for tax exemptions for space leased on taxable properties for municipal purposes. In discussions with the Municipal Property Assessment Corporation, Legal Services Division, City Clerk’s Office and Taxation Division, it was determined that the City’s By-Law and process for requests for exemptions needed to be adjusted. The Legal Services Division then consulted with MPAC’s Policy Division and have created the attached By-Law (refer to Appendix “A” of FCS11067), which should, therefore, speed up the process in having the City’s request for exemptions approved.

Currently the Taxation Division initiates the requests to MPAC for tax exemptions based on requests from the various departments leasing space. In order to get the approvals for the exemptions, MPAC needs to be officially advised, through the City Clerk’s Office, and a copy of the lease sent along with our By-Law. The City Clerk’s Office will also advise the secretaries of the various school boards.

POLICY IMPLICATIONS

Section 110(6) of the Municipal Act, 2001.

RELEVANT CONSULTATION

Legal Services Division
Municipal Property Assessment Corporation
City Clerk’s Office
ANALYSIS / RATIONALE FOR RECOMMENDATION
(include Performance Measurement/Benchmarking Data, if applicable)

By having the City’s By-Law and process adjusted and approved by City Council, our request for tax exemptions on space leased by the City should be approved in a more timely fashion by MPAC.

ALTERNATIVES FOR CONSIDERATION
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A.

CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Financial Sustainability
• Financially Sustainable City by 2020.

APPENDICES / SCHEDULES

CITY OF HAMILTON

By-law No. _____

To Authorize Tax Exemptions for Land Leased by the City of Hamilton for the Purposes of the Provision of Municipal Capital Facilities as permitted pursuant to Subsection 110(6) of the Municipal Act, 2001 and Ontario Regulation 603/06

And To Repeal By-law No. 05-106

WHEREAS pursuant to subsection 110(6) of the Municipal Act, 2001 the council of a municipality may exempt from taxation for municipal and school purposes land or a portion of it on which municipal capital facilities are or will be located;

AND WHEREAS pursuant to subsection 2(1) of Ontario Regulation 603/06, the classes of municipal capital facilities that are eligible municipal capital facilities for the purposes of a tax exemption under subsection 110(6) of the Municipal Act, 2001, are:

1. Facilities used by the council.
2. Facilities used for the general administration of the municipality;
3. Municipal roads, highways and bridges
4. Municipal local improvements and public utilities, except facilities for the generation of electricity.
5. Municipal facilities related to the provision of telecommunications, transit and transportation systems.
6. Municipal facilities for water, sewers, sewage, drainage and flood control.
7. Municipal facilities for the collection and management of waste and garbage.
8. Municipal facilities related to policing, firefighting and by-law enforcement.
9. Municipal facilities for the protection, regulation and control of animals.
10. Municipal facilities related to the provision of social and health services, including homes under the Homes for the Aged and Rest Homes Act.
11. Municipal facilities for public libraries
12. Municipal facilities that combine the facilities described in paragraphs 1 to 11.
13. Parking facilities ancillary to facilities described in any of paragraphs 1 to 12.
14. Municipal community centres.
15. Parking facilities ancillary to facilities described in paragraph 14.
16. Municipal facilities used for cultural, recreational or tourist purposes.
17. Municipal general parking facilities and parking facilities ancillary to facilities described in paragraph 16.
18. Municipal housing project facilities.

AND WHEREAS this By-law does not apply to municipal housing project facilities, paragraph 18 of subsection 2(1) of Ontario Regulation 603/06;

AND WHEREAS the City of Hamilton has entered into, and does from time to time enter into, various lease agreements to lease land within the City of Hamilton, on which are located eligible municipal capital facilities for the purposes of tax exemption.

NOW THEREFORE, the Council of the City of Hamilton enacts as follows:

1. In this By-law:

“City” means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

“Council” means the Council of the City of Hamilton;

“Clerk” means the City Clerk; and

“land” includes buildings.

2. This By-law does not apply to a municipal capital facility described in paragraph 18 of subsection 2(1) of Ontario Regulation 603/06, namely a municipal housing project facility.

3. Land or a portion of land leased by the City of Hamilton for the purposes of the provision of any of the classes of municipal capital facilities listed in paragraphs 1 to 17 both inclusive of subsection 2(1) of Ontario Regulation 603/06 shall be exempt from taxation for municipal and school purposes pursuant to subsection 110(6) of the Municipal Act, 2001, effective as at the date of commencement of the lease agreement between the City and the landlord and continuing thereafter until such time as the lease agreement has expired or has been terminated, if:

(a) a lease agreement has been entered into between the City and the landlord;

(b) the lease agreement is in a form satisfactory to the City Solicitor; and
(c)(i) in the case of a municipal capital facility described in paragraph 14 or 15 of subsection 2(1) of Ontario Regulation 603/06, namely a municipal community centre or a parking facility ancillary to a municipal community centre:

1. the municipal capital facility is primarily used for local community activities; and
2. Council has declared by resolution that the municipal capital facility is for the purposes of the City and is for public use; or

(ii) in the case of a municipal capital facility described in paragraph 16 or 17 of subsection 2(1) of Ontario Regulation 603/06, namely a municipal facility used for cultural, recreational or tourist purposes, a municipal general parking facility or a parking facility ancillary to a municipal facility used for cultural, recreational or tourist purposes:

1. the City, another municipality, the Crown, a local board as defined in section 1 of the Municipal Affairs Act, a university in Ontario that is authorized to operate as described in section 3 of the Post-secondary Education Choice and Excellence Act, 2000 or a college established under the Ontario Colleges of Applied Arts and Technology Act, 2002 owns or agrees to purchase or will own on reversion of the property, the municipal capital facility, including the land where it is situate; and
2. Council has declared by resolution that the municipal capital facility is for the purposes of the City and is for public use.

4. This By-law shall not be considered to provide for a tax exemption in respect of any portion of land that is not entirely occupied or intended for use for a service or function that may be provided by the City.

5. Upon approval of and before commencement of a lease agreement that exempts land or a portion of land from taxation under this By-law, the Clerk, or his or her designate, shall give written notice of this By-law and of the lease agreement to:

(a) the Municipal Property Assessment Corporation;
(b) the clerk of any other municipality that would, but for the by-law, have had authority to levy rates on the assessment for the land exempted by the by-law; and
(c) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by this By-law.
6. This By-law shall not be considered to provide for a tax exemption in respect of a special levy under sections 311 or 312 of the Municipal Act, 2001, for sewer and water.

7. Section 357 of the Municipal Act, 2001, applies with necessary modifications to allow for a cancellation, reduction or refund of taxes that are no longer payable as a result of this By-law.

8.(1) All land leased by the City and exempt from taxation for municipal and school purposes pursuant to By-law No. 05-106 shall be deemed to be:

   (a) exempt from taxation for municipal and school purposes pursuant to this By-law; and
   (b) subject to all the applicable provisions of this By-law.

(2) By-law No. 05-106 is repealed as of the date on which this By-law comes into force.

9. This By-law shall come into force on the day it is passed.

PASSED this                  day of                  , 2011.

_______________________  _______________ ____________
MAYOR – R. Bratina   CITY CLERK – R. Caterini