

Authority: Item 7, Audit, Finance and
Administration Committee
Report 11-010 (FCS11067)
CM: September 14, 2011

Bill No. 224

CITY OF HAMILTON

BY-LAW NO. 11-224

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 14th day of September, 2011.



R. Bratina
Mayor



R. Caterini
City Clerk