

Authority: Item 4, General Issues Committee Report 23-028 (PED18168(k))
CM: November 8, 2023 Ward: 2
Written approval for this by-law was given by Mayoral Decision MDE-2023 08
dated November 8, 2023

Bill No. 210

**CITY OF HAMILTON
BY-LAW NO. 23-210**

To Authorize a Tax Exemption for the Arena Located at 101 York Boulevard for the Purposes of the Provision of Municipal Capital Facilities as defined in Section 110 of the Municipal Act, 2001 and to Repeal By-law No. 22-054

WHEREAS pursuant to subsection 110(6) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, 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 110(20)(c) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, the Lieutenant Governor in Council may make regulations prescribing eligible municipal capital facilities for which municipalities may grant tax exemptions under subsection (6);

AND WHEREAS, pursuant to subsection 2(1) of Ontario Regulation 603/06, the council of a municipality may enter into an agreement under subsection 110(1) of the Act for the provision of Municipal facilities for cultural, recreational and tourist purposes;

AND WHEREAS the City of Hamilton and Hamilton Arena Company Limited Partnership (the Tenant) have entered into a lease in respect of the Arena located at 101 York Boulevard, and related to the foregoing lease, a Municipal Capital Facilities Agreement for the provision of facilities for cultural, recreational and tourist purposes;

AND WHEREAS the eligible portions of the Arena operating and intended to be operated as a sport, recreational and entertainment complex are declared to be for the purposes of the municipality and for public use.

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

1. In this By-law:

“Agreement” meant the Municipal Capital Facilities Agreement to be entered into between the City and the Tenant with respect to the provision of municipal capital facilities at the Arena;

“Arena” means the lands and premises comprising the downtown arena as described in Schedule “A” hereto;

"Clerk" means the City Clerk;

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

“Eligible Portion” or “Eligible Portions” means the portion(s) of the Arena entirely occupied or used or intended to be occupied or used for cultural, recreational and tourist purposes;

“Tenant” means the Hamilton Arena Company Limited Partnership, or its permitted successors and assigns, leasing the Arena pursuant to the Lease;

“Landlord” means the city as Lessor under the Lease;

“Lease” means the lease entered into between the City and Hamilton Arena Company Limited Partnership dated [TBD] in respect of the Arena;

"Person" means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however designated or constituted;

“Tax Exemption” means the exemption from taxes levied for municipal and school purposes pursuant to section 110(6) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended; and

Municipal Capital Facility

2. This By-law exempts from taxation for municipal and school board purposes the leasehold interest of the Tenant in the Eligible Portion(s) of the Arena and shall not operate in any manner whatsoever so as to exempt from taxation for municipal and school board purposes any other leasehold interest, tenancy, sub-lease, sub-tenancy, occupancy, license, user or other interest held by any other tenant, lessee, sub-tenant, sub-lessee, occupant, licensee, user or any other Person at the Arena, save and except for the interest of any assignee resulting from an assignment made with Landlord consent pursuant to the Lease.
3. The Tax Exemption provided in this By-law shall not apply to any portion of the Arena that is not an Eligible Portion at any given time during the term of the Lease.

4. This By-law shall be deemed repealed:
 - (a) if the city ceases to be the Landlord;
 - (b) if the Tenant ceases to be the Tenant without assigning the Lease to its successor with Landlord consent;
 - (c) if the Eligible Portion(s) of the Arena permanently cease to be occupied and used or are no longer intended to be occupied and used as a sports and live entertainment complex; or
 - (d) if the Lease, or any renewal or extension of the Lease expires or is terminated.

5. The City is authorized to enter into a Municipal Capital Facilities Agreement under section 110 of the *Municipal Act, 2001*, S.O. 2001 c. 25 with the HUPEG Entity for the provision of municipal capital facilities.

6.
 - (1) Sections 1, 3, 4, 5 and 6 of this By-law shall come into force on the day that the by-law is enacted.

 - (2) Section 2 of this By-law shall come into force on the later of the following:
 - (a) the date this By-law is enacted;
 - (b) the commencement date of the Lease; or
 - (c) the date the Agreement is entered into.

7. By-law No. 22-054 is repealed on the date Section 2 of this By-law comes into force.

PASSED this 8th day of November, 2023.

A. Horwath
Mayor

J. Pilon
Acting City Clerk

Schedule "A"

The Arena

The Property municipally known as 101 York Boulevard, Hamilton Ontario, consisting of Part of PIN 17587-0006 LT, or as such PIN shall be replaced by a successor PIN applicable to the leasehold parcel to be created pursuant to the Lease

Excluding the airspace above the upper boundary of the existing Arena