

Authority: Executive Committee Item EX34.21, adopted as amended, by City Council on May 22, 23 and 24, 2018

CITY OF TORONTO

BY-LAW 640-2018

To amend By-law 168-2018 and Municipal Code Chapter 767, Taxation, Property Tax, to further refine the eligibility criteria for, and to appoint an Appellate Authority and a Program Administrator for the Creative Co-location Facilities Subclasses.

Whereas at its meeting of February 12, 2018, City Council approved the adoption of a Creative Co-location Facilities Subclass for the Commercial Residual and the Industrial property classes, adopted eligibility criteria for the subclasses, and enacted By-law 168-2018 (the "By-law") to give effect thereto, all subject to the Minister of Finance filing a regulation enabling the City to create such subclasses; and

Whereas on May 8, 2018, the Minister of Finance filed Ontario Regulation 384/18 amending Ontario Regulation 282/98 under the Assessment Act (the "Regulation") prescribing a Creative Enterprise Facilities Subclass for the commercial and industrial property classes and optional property classes that contain property that would otherwise be included in the commercial or industrial property classes; and

Whereas the Regulation allows the City to opt to have the subclass apply, and provides that the subclass consists of land that is used for the production of cultural goods and the provision of cultural services, meets any additional eligibility requirements that the City has adopted for the subclass by by-law, and is listed in a by-law as a property that is eligible for inclusion in the subclass for the taxation year; and

Whereas the Regulation also allows the City to appoint a Program Administrator and an Appellate Authority; and

Whereas Council has amended some of the eligibility criteria for the subclasses and has appointed a Program Administrator and an Appellate Authority under the Regulation;

The Council of the City of Toronto enacts:

1. Deleting section 1 and 2 of By-law 168-2018 and substituting the following:

Municipal Code Chapter 767, Taxation, Property Tax, is amended by adding the following Article:

Article XI Creative Co-location Facilities Subclass

§ 767-34. Definitions.

As used in this Article, the following terms shall have the following meanings:

BELOW AVERAGE MARKET RENTS – Net rent that is at least 30 percent lower than the average market net rent for a similar space in the same classification of property as defined by

the Building Owners and Managers Association standards in the same neighbourhood, as determined by current data compiled by a recognized commercial realty firm.

CREATIVE CO-LOCATION FACILITIES SUBCLASSES – Subclasses of the Commercial Residual and Industrial property tax classes.

CREATIVE ENTERPRISES – Entities that produces Cultural Goods or provide Cultural Services, and in the case of Creative Enterprises producing Cultural Goods or providing Cultural Services in Cultural Sub-Domains D, E and F (written and published works, audio-visual and interactive media and sound recording), the Creative Enterprise must be a registered not-for-profit organization.

CULTURAL GOODS/CULTURAL SERVICES – Are cultural goods and/or cultural services as defined by the Canadian Framework for Cultural Statistics, under the headings Core Cultural Domains and Cultural Sub-Domains.

CULTURAL PROGRAMS – Events, educational sessions or other activities that relate to the following cultural activities:

- (1) film-making workshops or the screening of films or video;
- (2) author readings or workshops related to book publishing;
- (3) presentations of performing or visual arts;
- (4) interpretation of cultural and natural heritage; or
- (5) live music presentations.

LANDLORD – The owner or property manager of a Property.

PROPERTY – Property that is in the Commercial Residual or the Industrial property tax classes.

REGULATION – Ontario Regulation 282/98 as amended by Ontario Regulation 384/18.

§ 767-35. Qualifying properties.

All or a portion of a property qualifies for inclusion in the creative co-location facilities subclass of the property tax class in which the property is otherwise located, if:

- A. The property has:
 - (1) a minimum net rentable area of 10,000 square feet and a minimum of 5 full time tenants that are creative enterprises;
 - (2) is owned by the City, has a minimum net rentable area of 5,000 square feet and a minimum of 5 full time tenants that are creative enterprises; or
 - (3) has a minimum net rentable area of 5,000 square feet and a minimum of 40 full time tenants that are creative enterprises;
- B. A minimum of 51 percent of the tenants of the property are creative enterprises;

- C. Creative enterprises occupy at least 51 percent of the property's net rentable area;
- D. A minimum of 12 cultural programs are offered free of charge to the public at the property over a minimum of 10 months in each calendar year; and
- E. The landlord has applied to the City to have the property included in one of the creative co-location facilities subclasses in the form and by the deadline required by the City.

§ 767-36. Portion of qualifying property that is within the creative co-location facilities subclass.

The portion of a property qualifying under § 767-35 that is eligible for inclusion in the creative co-location facility subclass of the property tax class in which the property is otherwise located, is the sum of Subsections A, B and C as follows:

- A. All space occupied by the landlord for non-commercial activity up to a maximum of 10 percent of the total net rentable space;
- B. All leased space that meets the following criteria:
 - (1) Is leased to a creative enterprise for a minimum term of 5 years, or has been occupied by a creative enterprise for a continuous period of 5 years prior to application;
 - (2) The creative enterprise occupies the leased space for the purpose of providing the services of a creative enterprise;
 - (3) The lease requires the tenant to pay rent at a below average market rent level; and
 - (4) The landlord or a group of tenants provides at least two of Subsections (a) through (f) to the tenant:
 - (a) free use of meeting or conference space;
 - (b) free or subsidized use of office equipment;
 - (c) consolidated buying power for office and other supplies;
 - (d) access to free professional development and training or access to subsidized accredited professional services such as accounting or legal services;
 - (e) coordinated support for public programming; and
 - (f) coordinated marketing initiatives or shared security, cleaning, reception, mail or catering services.

- C. The proportion of the common space and shared elements of the property which is in the same proportion as the leased space identified in Subsection B is to the total net rentable area of the property.

§ 767-37. Program administrator.

- A. The General Manager, Economic Development and Culture is appointed the Program Administrator for the purpose of:
- (a) accepting and assessing applications for inclusion of properties in a creative co-location facilities subclass against the eligibility criteria set out in this Article and the Regulation;
 - (b) determining whether a property meets the requirements of this Article and the Regulation for inclusion in one of the creative co-location facilities subclasses;
 - (c) considering requests for reconsideration in accordance with the regulation of whether property should be included in a creative co-location facilities subclass; and
 - (d) performing any other duties of the program administrator under the Regulation.
- B. The City Solicitor is delegated the authority to submit bills to City Council to give effect to the determination by the Program Administrator made under Subsection A.

§ 767-38. By-law required.

A property that is determined by the Program Administrator to be eligible for inclusion in one of the creative co-location facilities subclasses under § 767-37 is included in the creative co-location facilities subclass of the property tax class in which the property is otherwise included upon enactment of a by-law by City Council specifying that the property is so included for the calendar year.

§ 767-40. Appeal.

The Treasurer is appointed the Appellate Authority for the purpose of hearing and determining appeals under section 23.0.5 of the Regulation of whether the property should be included in a creative co-location facilities subclass.

Enacted and passed on May 24, 2018.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)