

Authority: Item CC21.4, adopted as amended, by City of Toronto Council on May 28, 2020

CITY OF TORONTO

BY-LAW 397-2020

To amend City of Toronto Municipal Code Chapter 767, Taxation, Property Tax, to make changes to the creative co-location facility property tax subclass by adding Live Music Venues.

Whereas City Council has approved changes to the Creative Co-location Facilities Property Tax Subclasses to add eligibility for creative co-location facilities operating live music venues; and

Whereas it is necessary to amend City of Toronto Municipal Code Chapter 767, Taxation, Property Tax, to reflect the approved changes;

The Council of the City of Toronto enacts:

1. The City of Toronto Municipal Code Chapter 767, Taxation, Property Tax, is amended by deleting Article XI in its entirety and replacing it with Attachment 1 to this By-law.
2. This By-law is deemed to have come into effect for the 2020 taxation year.

Enacted and passed on May 28, 2020.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

Attachment 1
Chapter 767
TAXATION, PROPERTY TAX
Article XI
Creative Co-location Facilities Subclasses

§ 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, Commercial Residual and Industrial property tax classes.

CREATIVE ENTERPRISES - Entities that produce Cultural Goods or provide Cultural Services.

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, Cultural Sub-Domains, and Ancillary Culture Sub-domains

CULTURAL PROGRAMS - Events, educational sessions or other activities that relate to any of 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; and
- (5) live music presentations.

ELIGIBLE PROPERTY TAX CLASS - Each of the Commercial, Commercial Residual and Industrial property tax classes.

LANDLORD - The owner or property manager of a Property.

REGULATION - Ontario Regulation 282/98 as amended by Ontario Regulation 384/18;

TENANT CREATIVE ENTERPRISES – Creative Enterprises, other than those in the Ancillary Culture Sub-domains, 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.

§ 767-35. Tenant-based Model.

A. Qualifying properties.

All or a portion of a property qualifies for inclusion in the Creative Co-location Facilities Subclass of the eligible property tax class in which the property is otherwise located, if:

- (1) The property has:
 - (a) a minimum net rentable area of 10,000 square feet and a minimum of 5 full time tenants that are Tenant Creative Enterprises;
 - (b) 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 Tenant Creative Enterprises; or
 - (c) has a minimum net rentable area of 5,000 square feet and a minimum of 40 full time tenants that are Tenant Creative Enterprises;
- (2) A minimum of 51 percent of the tenants of the property are Tenant Creative Enterprises;
- (3) Tenant Creative Enterprises occupy at least 51 percent of the property's net rentable area;
- (4) 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
- (5) 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.

B. Portion of qualifying property that is within the creative co-location facilities subclass.

The portion of a property qualifying under Subsection A that is eligible for inclusion in the Creative Co-location Facility Subclass of the eligible property tax class in which the property is otherwise located, is the sum of Subsections B (1), (2) and (3) as follows:

- (1) All space occupied by the Landlord for non-commercial activity up to a maximum of 10 percent of the total net rentable space;
- (2) All leased space that meets the following criteria:
 - (a) Is leased to a Tenant Creative Enterprise for a minimum term of 5 years, or has been occupied by a Tenant Creative Enterprise for a continuous period of 5 years prior to application;
 - (b) The Tenant Creative Enterprise occupies the leased space for the purpose of providing the services of a Tenant Creative Enterprise;
 - (c) The lease requires the tenant to pay rent at a below average market rent level; and
 - (d) The Landlord or a group of tenants provides at least two of Subsections B(2)(d)[1] through [6] to the tenant as follows:
 - [1] Free use of meeting or conference space;
 - [2] Free or subsidized use of office equipment;
 - [3] Consolidated buying power for office and other supplies;

- [4] Access to free professional development and training or access to subsidized accredited professional services such as accounting or legal services;
 - [5] Co-ordinated support for public programming; and
 - [6] Co-ordinated marketing initiatives or shared security, cleaning, reception, mail or catering services.
- (3) 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(1) is to the total net rentable area of the property.

§ 767-36. Membership-based Model.

A. Definitions.

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

CO-WORKING FACILITY – Work space in which members use a shared physical work space on a membership basis rather than a lease arrangement.

MEMBERS – self-employed individuals or small enterprises who pay a membership fee to use a Co-working Facility.

B. Qualifying properties.

All or a portion of a property that is a Co-working Facility qualifies for inclusion in the Creative Co-location Facilities subclass of the eligible property tax class in which the property is otherwise located, if:

- (1) The property has:
 - (a) a minimum work and common space area of 5,000 square feet;
 - (b) is operated by an operator who is:
 - [1] a not-for-profit organization incorporated under the laws of Ontario or Canada which has been incorporated for a minimum of 12 months prior to applying for inclusion in the Creative Co-location Facilities Subclass;
 - [2] has a board of directors; and
 - [3] has a mandate to provide access to space and professional development services for the creative sector;
 - (c) a minimum of 75% of the Members are Creative Enterprises;
 - (d) the operator provides Members access to and use of the following shared resources for a minimum of 8 hours per day, 5 days per week:
 - [1] work space consisting of office or production space;
 - [2] meeting or conference space;

[3] high-speed wireless internet access that meets minimum standards established by the Canadian Radio-Television and Telecommunication Commission (CRTC); and

[4] office equipment.

(e) a minimum of 25 professional development programs, services or events are offered to Members, in the calendar year; and

(f) The operator 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.

C. Portion of qualifying property that is within the Creative Co-location Facilities Subclass.

(1) The portion of a property qualifying under Subsection B that is eligible for inclusion in the Creative Co-location Facility Subclass of the eligible property tax class in which the property is otherwise located, is the sum of Subsections C(1)(a) and (b) as follows:

(a) All space occupied by the operator for non-commercial activity up to a maximum of 10 percent of the total square footage of the property; and

(b) All space that is accessible for use by Members both as workspace and as common space.

(2) All other portions of a property qualifying under Subsection B is not eligible for inclusion in the Creative Co-location Facility Subclasses, including:

(a) ancillary retail;

(b) associated underground parking;

(c) connected residential units; and

(d) venue rental space used for commercial activity.

§ 767-37. Live Music Venue Model.

A. Definitions.

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

LIVE MUSIC PERFORMANCE – a performance by individual musical artists or groups of musical artists of original or non-original (cover) musical works on instruments, vocally or on equipment conventionally used to perform jazz, rock, folk, classical, R&B, hip hop, global, experimental, and other genres of music, and includes performances by electronic musical artists and DJs using digital equipment, software, or turntables to create musical performances for an audience, but excludes the simple playback of recorded music without a creative role being played by the DJ

LIVE MUSIC VENUE – a venue which provides Live Music Performance

B. Qualifying properties.

All or a portion of a property in which a Live Music Venue operates qualifies for inclusion in the Creative Co-location Facilities subclass of the eligible property tax class in which the property is otherwise located, if:

- (1) The property:
 - (a) has a maximum capacity of 1,500 persons for the Live Music Venue as defined by occupant load;
 - (b) provides a minimum of four of the following amenities or types of equipment:
 - [1] fixed stage or stage area;
 - [2] sound booth or desk with sound board;
 - [3] artist dressing room;
 - [4] window, booth, or established point where tickets or cover charges are collected;
 - [5] audio equipment (amplified PA system with mics, and/or backline); and
 - [6] performance or stage lighting;
 - (c)
 - [1] presents Live Music Performances a minimum of 144 days annually; or in year in which the Live Music Venue has been closed by emergency orders as a result of the COVID-19 pandemic, presents Live Music Performances 40 percent of all operating days within the calendar year; and
 - [2] compensates artists for Live Music Performances (through a percentage of bar sales or door cover, or as agreed via a formal or informal contract), and does not charge artists for the use of the stage or equipment for Live Music Performances;
 - (d) provides a minimum of two of the following roles in connection with the programming of its Live Music Performances either through regular venue staff or through contract workers (one person may fulfill more than one role):
 - [1] venue booker;
 - [2] event promoter;
 - [3] audio technician;
 - [4] stage manager; and
 - [5] door person/venue security;

- (e) has operated as a Live Music Venue and has fulfilled Subsections B(1) (a) – (d), for a minimum of six months prior to applying for inclusion in the Creative Co-Location Facilities Property Tax Subclasses.

C. Portion of qualifying property that is within the Creative Co-location Facilities Subclass.

- (1) The portion of a property qualifying under Subsection B that is eligible for inclusion in the Creative Co-location Facility Subclass of the eligible property tax class in which the property is otherwise located, is all portions of the qualifying property, excluding any portion that is a clearly separate area in which a separate business operation occurs that is not directly linked to the Live Music Venue and which is not conducive to viewing or listening to the Live Music Performance.
- (2) Notwithstanding the exclusion in Subsection C(1), areas used primarily as entrances to the Live Music Venue, audience holding areas, or foyers, even if food and beverage service is available in such areas are included in the portion of the property eligible for inclusion in the Creative Co-location Facility Subclass.

§ 767-38. 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.

§ 767-39. 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 § 767-38 is included in the Creative Co-location Facilities Subclass of the eligible 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 Controller 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.