

Document 1

BY-LAW NO. 2021-XX

A by-law of the City of Ottawa to establish a Small Business Tax Class for the City of Ottawa.

WHEREAS section 2(3.1)(d)(i) of the *Assessment Act*, ROS 1990, c A.31, as amended ("*Assessment Act*"), provides that a regulation prescribing classes or subclasses of real property may allow for a municipality to establish all of the requirements for land to be included in a class or subclass in the municipality or some portion of it;

AND WHEREAS section 23.0.8(2) of *Assessment Act* Regulation 282/98 as amended by Regulation 331/21 ("*Regulation*") provides that a small business subclass applies for a property class within a single-tier municipality only if the council of the single-tier municipality has passed a by-law that opts to have the subclass apply for that property class;

AND WHEREAS section 23.0.8(4) of the Regulation further provides that a by-law opting to have the subclass apply may establish different requirements for the subclass in different portions of the municipality;

AND WHEREAS at its meeting of October 13, 2021, Council approved the establishment of the small business subclass effective January 1, 2022 as further described in the Regulation and subject to the eligibility requirements in this by-law;

THEREFORE the Council of the City of Ottawa enacts as follows:

DEFINITIONS

1. In this by-law:

"Appellate Authority" means the Deputy City Treasurer, Revenue Services for the City of Ottawa or an authorized staff person within the applicable department acting in such capacity to exercise the powers, duties and functions set out in this by-law and the Regulation;

"Program Administrator" means the Program Manager Property Assessment and PILTs for the City of Ottawa or an authorized staff person within the applicable department acting in such capacity to exercise the powers, duties and functions set out in this by-law and the Regulation;

"Small Business Subclass" means the optional tax subclass prescribed by the Regulation and this By-law, applicable to eligible parts of property occupied by a small business that is assessed for municipal property taxes.

ESTABLISHMENT OF SMALL BUSINESS SUBCLASS

2. The Small Business Subclass, prescribed by section 23.0.8(1) of the Regulation and as further prescribed herein, is established by way of this by-law.

3. The Small Business Subclass shall only apply to portions of property in the City of Ottawa which the Program Administrator has approved for inclusion in the subclass for the relevant taxation year in accordance with this by-law and if the land has not subsequently ceased to be included in the subclass as a result of the requirements set out in paragraph 5 or 6.

4. The Program Administrator shall include parts of an assessed property within the Small Business Subclass properties which meet the requirements set out in paragraphs 5 and 6.

ELIGIBILITY REQUIREMENTS

5. A Small Business Property is defined as including only parts of a taxable property that meets the criteria in parts (a), (b) and (c) at the time of the assessment roll return provided by the Municipal Property Assessment Corporation ("MPAC") as of the second Tuesday of December of the previous year as per section 39 (1) of the *Assessment Act*;

- (a) is in the commercial, industrial or optional class that contains property that would otherwise be included in the commercial or industrial class but is not parking lot, vacant land or excess land;
- (b) is categorized by MPAC in one of the one of the property codes set out in Schedule "A" or Schedule "B" of this by-law, subject to the requirements set out in paragraph 5(c) and this by-law;
- (c) if categorized in a property code contained in Schedule "B" shall, in addition to the requirements set out in paragraphs 5(a) and (b), have an assessed square footage (as determined by MPAC) that is 25,000 square feet or less.

6. The Small Business Subclass applies only to the portion of the property occupied by the Small Business that has an assessed value in the following realty tax classifications and realty tax qualifiers as determined by MPAC:

- (a) The Commercial Taxable Full (CT)
- (b) New Commercial Taxable Full (XT)
- (c) Industrial Taxable Full (IT)
- (d) New Industrial Taxable Full (JT) realty tax classes and qualifiers.

LIST OF ELIGIBLE PROPERTIES

7. The list of properties with portions of land which the Program Administrator has determined in accordance with the roll return are used by the owner or a tenant for a small business as described in this by-law may be approved by the Program Administrator to be included in the Small Business Subclass property list and shall be posted on the City's website on or before January 31, 2022 for the 2022 tax year, and for subsequent tax years shall be posted on or before the last business day in January.

APPOINTMENTS

8. The following positions are hereby appointed to exercise the powers, duties and functions set out in this by-law and the Regulation:

- (a) **PROGRAM ADMINISTRATOR:**
The Program Administrator shall be the City of Ottawa employee holding the position of Program Manager for Property Assessment and PILTs
- (b) **APPELLANT AUTHORITY:**
The Appellate Authority shall be the City of Ottawa employee holding the position of Deputy City Treasurer – Revenue Services

INCLUSION AND REMOVAL FROM SMALL BUSINESS SUBCLASS

9. Small Business Properties shall continue to meet the eligibility requirements of this by-law to remain included in the Small Business Subclass.

10. The Program Administrator may, at any time after property is determined to be included within the Small Business Subclass, conduct an audit to verify that the property continues to meet the requirements set out in this by-law. For the purposes of this audit:

- (a) The Program Administrator reserves the right to inspect a property by providing a minimum of 48 hours' notice in writing to the property owner;
- (b) The Program Administrator may require the property owner to produce information to support their continued inclusion in the Small Business Subclass.

11. If the Program Administrator determines that an owner of a property contained within the Small Business Subclass has not complied with an audit conducted under paragraph 10,

- (a) The Program Administrator shall provide the property owner and MPAC with a notice of determination; and

- (b) The property shall cease to be included in the Small Business Subclass retroactive to the beginning of the taxation year for which the determination is made.

12. If the Program Administrator determines that the property no longer meets any of the eligibility requirements set out in this by-law,

- (a) The Program Administrator shall provide the property owner and MPAC with notice of determination; and
- (b) The property shall cease to be included in the Small Business Subclass retroactive to the beginning of the taxation year or the date the land stopped meeting the conditions for inclusion in the subclass, whichever is later, as determined by the Program Administrator.

REQUESTS FOR RECONSIDERATION

13. A request for reconsideration set out in paragraph 14 with respect to whether a property is included in the Small Business Subclass shall be made in accordance with the procedures set out in this by-law instead of the procedures set out in section 39.1 of the *Assessment Act*.

14. A property owner may request that the Program Administrator reconsider,

- (a) a determination made under paragraph 4 as to whether the property should be approved for inclusion in the Small Business Subclass;
- (b) a determination made under paragraph 11 as to whether the property owner has complied with an audit; or
- (c) a determination made under paragraph 12 as to whether the property continues to meet the requirements set out in this by-law.

15. The following deadlines apply with respect to a request for reconsideration:

- (a) For a determination made under paragraph 4, the request must be made within 90 days after the Program Administrator makes the list of properties approved for inclusion in the subclass for the taxation year available for public inspection in accordance with paragraph 7;
- (b) For a determination made under paragraph 11, the request must be made within 90 days after the Program Administrator provides the notice of the determination;
- (c) For a determination made under paragraph 12, the request must be made within 90 days after the Program Administrator gives notice of the determination.

16. A request for reconsideration must set out the basis for the property owner's request and all relevant facts.

17. The Program Administrator shall consider the request and, for this purpose, may request further information from the property owner.

18. The Program Administrator shall provide the property owner with the results of the reconsideration within 90 days after the day the request is made or, where a Program Administrator has requested further information under paragraph 17, within 90 days from the day that the entirety of that further information has been received by the Program Administrator.

19. If the Program Administrator determines that a property should have been approved for inclusion in the subclass under paragraph 4, or that it should not have ceased to be included in the subclass after a determination made under paragraph 11 or 12, the Program Administrator shall,

- (a) give notice of the determination to the Clerk of the City of Ottawa;
- (b) update the list set out in paragraph 7;
- (c) provide the updated list to MPAC;
- (d) make the updated list available for public inspection on the City's website.

20. After receiving notice of the Program Administrator's determination, the City's Clerk shall alter the tax roll accordingly and taxes shall be levied in accordance with the amended roll.

APPEALS

21. An appeal with respect to whether the property is included in the Small Business Subclass shall be made according to the procedure set out in this by-law instead of the procedure set out in section 40 of the *Assessment Act*.

22. A property owner who would be entitled to appeal the classification of a property under section 40 of the *Assessment Act* but for the application of paragraph 21 may instead appeal the following decisions to the Appellate Authority:

- (a) A determination of the Program Administrator under paragraph 4 as to whether a property should be approved for inclusion in the Small Business Subclass;
- (b) A determination of the Program Administrator under paragraph 11 as to whether a property owner has complied with an audit;

- (c) A determination of the Program Administrator under paragraph 12 as to whether a property meets the requirements set out in this by-law.

23. Subject to paragraph 24, no appeal to the Appellate Authority may be made by a property owner who is entitled to make a request for reconsideration under paragraph 14 in respect of the property if the property owner has not made the request within the time limit set out in paragraph 15.

24. If, in the opinion of the Appellate Authority, there are extenuating circumstances explaining why a request for reconsideration in respect of the property was not made within the time limit set out in paragraph 15, the Appellate Authority may, on an application submitted by the property owner within 180 days after the applicable deadline in that paragraph, extend the deadline for making a request under that paragraph.

25. The deadline for appealing a determination of the Program Administrator to the Appellate Authority is 90 days after the Program Administrator has given notice of the decision to the property owner or provided the property owner with the results of a reconsideration, whichever is applicable.

26. The Appellate Authority shall hold a hearing to determine whether the property should have been approved for inclusion in the Small Business Subclass or should not have ceased to be included in the Small Business Subclass.

27. The hearing may be held orally or in writing at the discretion of the Appellate Authority.

28. The following persons shall be parties to the appeal:

- (a) All persons appealing and all persons whose assessment is the subject of the appeal; and
- (b) The Program Administrator.

29. Subsections 40 (2), (3.1), (9), (14), (15), (22) and (28) of the *Assessment Act* apply, with necessary modifications, to an appeal to the Appellate Authority under this section.

30. Upon determining the issue, the Appellate Authority shall provide the parties, MPAC, the Assessment Review Board and the City Clerk with a copy of the decision.

31. If the Appellate Authority determines that the property should have been approved for inclusion in the Small Business Subclass under paragraph 4, or that it should not have ceased to be included in the Small Business Subclass under paragraph 11 or 12, the Appellate Authority shall direct the Program Administrator to approve the property for inclusion in the subclass.

32. After receiving notice of the Appellate Authority's determination,

- (a) the City Clerk shall alter the tax roll accordingly and taxes shall be levied in accordance with the amended roll;
- (b) the Program Administrator shall,
 - (i) update the list described in paragraph 7;
 - (ii) provide the updated list to MPAC; and
 - (iii) make the updated list available for public inspection on the City's website.

33. The Appellate Authority may state a case under section 43 of the *Assessment Act* with respect to the matters set out in paragraph 22.

34. Schedule "A" and "B" attached hereto shall be and form a part of this by-law.

35. This by-law comes into force and effect on January 1, 2022.

ENACTED AND PASSED this 13 day of October 2021.

DEPUTY CITY CLERK

MAYOR

Schedule "A"

Description	Property Code
Small office building, generally single tenant or owner-occupied under 7,500 square feet	400
Office use converted from house	405
Retail use converted from house	406
Retail – one storey, generally under 10,000 square feet	410
Restaurant - conventional	411
Restaurant - fast food	412
Restaurant - conventional, national chain	413
Restaurant - fast food, national chain	414
Concert hall/theatre/cinema/movie house/drive-in theatre	415
Tavern/public house/small hotel	441
Motel	450
Country inns & small inns	462
Retail or office with residential unit(s) above or behind - less than 10,000 square feet gross building area (GBA), street or onsite parking, with six or less apartments, older downtown core	471
Commercial condominium	475
Commercial condominium (live/work)	476
Retail with office(s) - less than 10,000 square feet gross building area (GBA) with offices above	477
Campground	486
Driving range/golf centre - stand-alone, not part of a regulation golf course	489
Marina - located on waterfront - defined as a commercial facility for the maintenance, storage, service and/or sale of watercraft	492
Marina - not located on waterfront - defined as a commercial facility for the maintenance, storage, service and/or sale of watercraft	493
Industrial condominium	575
Day Care	608
Recreational sport club - non-commercial (excludes golf clubs and ski resorts)	710
Bowling alley	711
Racetrack - auto	715
Residence with a commercial unit	303
Residence with a commercial/industrial use building	304
Bed and Breakfast Establishment	383

Schedule "B"

Description	Property Code
Specialty automotive shop/auto repair/collision service/car or truck wash	421
Neighbourhood shopping centre with more than two stores attached and under one ownership, with anchor - generally less than 150,000 square feet	425
Community shopping centre	429
Neighbourhood shopping centre with more than two stores attached and under one ownership, without anchor - generally less than 150,000 square feet	430
Multi-type complex - defined as a large multi-use complex consisting of retail/office and other uses (multi-res/condominium/hotel)	470
Retail or office with residential unit(s) above or behind - greater than 10,000 square feet gross building area (GBA), street or onsite parking, with seven or more apartments, older downtown core	472
Retail with more than one non-retail use	473
Standard industrial properties not specifically identified by other Industrial Property Codes	520
Other industrial (all other types not specifically defined)	540
Industrial mall	580
Assembly hall, community hall	735
Clubs - private, fraternal	736
Multi-residential, high-rise property with seven or more self-contained residential units* with small service-oriented commercial units, designed to service the residential tenants	341