

# ACCESSORY DWELLING UNIT AND MULTI- PLEX HOUSING INCENTIVE PROGRAM



## A. PROGRAM DESCRIPTION

The Accessory Dwelling Unit and Multi-Plex Housing Incentive Program (the Program) is intended to provide financial incentives to support the creation of Additional Dwelling Units or Garden Suites within, or on the same property as, new or existing low-density houses or the creation of multi-plex developments with six (6) or less Dwelling Units. This Program is available as a result of the Canada Mortgage and Housing Corporation's (CMHC) Housing Accelerator Fund (HAF).

Under this Program, incentives are provided as:

- a Grant to rebate the City application fee (excluding HST) for each building permit successfully issued to construct an individual eligible unit or a building containing eligible units to a maximum of \$2,000 per building permit; and/or
- a 15-year Forgivable Loan of \$25,000 per Eligible Unit(s) intending to meet the affordability parameters of this Program, as further detailed in Section B herein, to a maximum of \$150,000 per Site.

This Program applies to Sites located within the Housing for Hamilton Community Improvement Project Area (HHCIPA) with the exception of those within Sub Area 2 – Roxborough.

Applications under this Program are subject to approval, and the availability of funds, at the absolute discretion of the General Manager of the Healthy and Safe Communities Department (GM).

Grants/Forgivable Loans provided under this Program shall be provided to the Applicant who is the registered owner of the Site that is the subject of the Program application.

All costs associated with the development and the requirements of this Program are to be borne by the Applicant including construction, design, community benefit charges, development charges, parkland dedication, administration fees, appraisals, inspections, legal, discharge and registration fees (plus applicable taxes), where applicable.

For the purposes of this Program:

- 'Site' shall mean all properties/parcels of land required for the planned development.

- 'Eligible Unit' shall mean any of the following, the construction of which has been the subject of a successful building permit issuance:
  - An 'Additional Dwelling Unit' or 'Additional Dwelling Unit – Detached' as defined under Hamilton Zoning By-law 05-200, as amended and which requires a building permit to create;
  - 'Garden Suite' as defined under the *Planning Act*, R.S.O. 1990, c. P.13, as amended; and
  - Residential or mixed use multi-plex developments of any form containing six (6) or less Dwelling Units within the same building, with 'Dwelling Unit' having the same meaning as defined in Hamilton Zoning By-law 05-200, as amended.
- 'Program Interest Rate' shall mean the prevailing interest rate established by City Council on tax arrears and charged per annum unless otherwise forgiven in accordance with the terms of this Program.

The Healthy and Safe Communities and Planning and Economic Development Departments, through the Housing Services and Economic Development Divisions respectively, will periodically review the terms and availability of this Program and undertake updates from time to time subject to City Council approval and/or direction.

## B. PROGRAM ELIGIBILITY AND CRITERIA

1. Applications to this Program must meet the goals of the Housing for Hamilton Community Improvement Plan (HHCIP).
2. Eligible Unit(s) shall be located on a Site within the Housing for Hamilton Community Improvement Project Area (HHCIPA) but shall not be located within Sub Area 2 – Roxborough.
3. This Program shall not apply to a Site where a designated heritage building, or any designated part thereof, has been demolished in contravention of the *Ontario Heritage Act* or any applicable City by-law or Official Plan policy respecting designated heritage buildings, or parts thereof.
4. The maximum Grant provided under this Program shall be the City application fee paid (excluding HST) for each building permit successfully issued to construct an individual eligible unit or a building containing eligible units to a maximum of \$2,000 per building permit.
5. In addition to paragraph four above, an Applicant may be eligible for an additional Forgivable Loan of up to \$25,000 per Eligible Unit, to a maximum of \$150,000 per Site subject to paragraphs 20, 21, and 22 herein.

6. An Applicant to this Program must be the registered owner of the Site with the Grant/Forgivable Loan only being available to the successful Program Applicant. A Grant or Forgivable Loan under this Program cannot be assigned or directed to any other payee unless otherwise provided for herein.
7. An Applicant may apply to this Program for any Eligible Unit(s) where the date of issuance of a building permit for the construction of the Eligible Unit(s) occurred on or after the date this Program came into effect.
8. Prior to any application approval and the advance of any Grant or Forgivable Loan funds, confirmation of the following shall be required: all municipal property taxes are paid and current on the subject Site, the Site is in compliance with Zoning By-law regulations, that there are no outstanding property standards violations or orders, Building Code violations or orders or Fire Code violation or orders, any violations of law or any orders by any other judicial, governmental or regulatory authority, regarding the subject Site or the development on the subject Site and that the Applicant is not in litigation with the City.
9. Approval and the receiving of financial assistance under this Program shall not preclude eligibility, approval and the receiving of financial assistance under any other available municipal program, except for any other Program provided/authorized under the HHCIP which shall not be permitted.
10. Applications under this Program are subject to approval, and the availability of funds, at the absolute discretion of the GM.
11. Without limiting the discretion as set out in paragraph 10 herein, City Council, or its delegate, shall determine whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where, in the opinion of City Council, or its delegate, the commercial relationship between the City and the Applicant has been impaired by, but not limited to, the Applicant being involved in litigation with the City. Applicants shall include but not be limited to the following: The Applicant identified on the application form and, if a corporation, any person or entity with an interest in the corporation or any officer or director of the corporation, as determined by the GM in their sole, absolute and unfettered discretion.
12. Without limiting the discretion as set out in paragraph 10 herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application without further consideration where due diligence undertaken by the City identifies municipal property tax arrears owed on the subject Site, mortgage payment are not update, non-existence of property insurance coverage, non-compliance with respect to Zoning By-law regulations or there exist outstanding property standards, Building Code or Fire Code orders in respect of the

subject Site or any other judicial, regulatory or governmental order in respect of the subject Site.

13. Without limiting the discretion as set out in paragraph 10 herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application where the GM determines in their sole discretion that there is a financial risk to the City in terms of the financial capabilities of the Applicant to complete the development subject to the Program application.
14. Without limiting the discretion as set out in paragraph 10, herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where there is credible information that the Applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that they will not conduct themselves with honesty and integrity in undertaking the activity, operation or business for which a Grant/Loan under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this paragraph 14, will be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 14 shall apply jointly and severally to each of them.
15. Buildings, uses and developments on the subject Site shall conform to the City's Official Plan(s), applicable Secondary Plan(s), Zoning By-Laws(s), Site Plan approval and any other applicable and approved municipal policies, by-laws or guidelines (e.g. urban design guidelines) and any other laws applicable to the subject Site and any development on it.
16. A Program application may be denied by City Council, or its delegate, if the development is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing.
17. Approval, part approval or denial of a Program application shall not fetter City Council's discretion regarding any *Planning Act* applications regarding the subject Site or any other decisions by City Council regarding the subject Site.
18. Approval of a Program application by City Council, or its delegate, may provide for a reduced Grant/Loan amount such that no Grant/Loan is provided in respect of any portion of the development which City Council does not support notwithstanding any approval of *Planning Act* applications by any other authority including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that City Council's decision on the application will not fetter its discretion on *Planning Act* applications. In such cases, the Applicant shall be required to provide additional

supporting documentation, at the Applicant's own expense, to support the providing of financial assistance in accordance with City Council's approval/direction.

19. An approved Grant will be paid in one lump sum upon occupancy being approved by the City in writing for all Eligible Unit(s) required for eligibility under this Program as well as confirmation of compliance with all other Program conditions required for a Grant payment.
20. Applications for a Forgivable Loan under this Program shall also be subject to the following conditions together with any other conditions as deemed appropriate by the GM and contained in the Loan Agreement:
  - a. The Eligible Unit shall be available for rental tenure.
  - b. The Eligible Unit will be the subject of a 15-year affordability period beginning from the date on which occupancy has been approved by the City in writing for all Eligible Unit(s) on the Site and ending on the 15<sup>th</sup> anniversary of such same date. The applicable rent charged during this affordability period for each Eligible Unit subject to a Loan shall not exceed 100% of the Average Market Rent (AMR) for the City of Hamilton as surveyed annually by CMHC with any applicable rent increases having been in accordance with a rental protocol as determined by the GM in their sole discretion and forming part of the Loan Agreement. After the 15-year affordability period, the Applicant shall have no further affordability obligations under this Program to the City.
  - c. The Applicant shall be the owner of the Eligible Unit for the duration of the loan term unless otherwise permitted by the GM.
  - d. The Applicant shall be responsible for tenant selection.
  - e. If a tenant vacates a unit, voluntarily or otherwise, the Applicant must inform the City of Hamilton Housing Services Division and the Applicant has a maximum of 60 days to fill the unit with another tenant. The Applicant shall be required to submit to the Housing Services Division proof that a new tenant has taken occupancy and the rent being charged.
  - f. The Loan term, comprising the period between the Loan being advanced ("Commencement Date") through to the 15<sup>th</sup> anniversary of the date on which occupancy has been approved by the City in writing for all Eligible Unit(s) on the Site subject to a Loan under this Program. The Loan shall be a closed Loan. The Loan shall accrue interest and interest shall be payable unless forgiven in accordance with paragraph 21.

- g. Repayment of the Loan shall occur at the end of Loan term together with applicable interest in accordance with paragraph 20 f. unless:
  - i. forgiven in accordance with paragraph 21; or
  - ii. subject to prior termination on default of the Loan Agreement in which case the Program Interest Rate shall apply from the date the Loan was advanced.
- h. Such reporting requirements as may be required at the sole discretion of the GM.
- i. In the event of a default as defined herein and/or as further contained in the Loan Agreement, the Loan will be capped immediately at the advanced amount and, subject to the Program Interest Rate from the date the Loan was advanced in accordance with paragraph 20 f. together with the maximum penalty permitted under applicable law, shall become immediately payable to the City.
- j. If a request for the initial Loan advance is not made by December 31, 2026, the Loan Agreement shall be deemed to be terminated and, without limiting the generality of the foregoing, the City shall not be obligated to provide the Loan.
- k. An approved Loan under this Program will be provided to the Applicant in a single advance (less such hold back as determined by the GM or required under applicable law) upon confirmation of building permit issuance for construction of the last Eligible Unit on the Site that is subject to a Loan under this Program and subject to the conditions set out here in and such additional conditions as determined by the GM in their sole discretion.
- l. In the event of a Change of Corporate Control where the Applicant is a corporation, the Applicant covenants and agrees that in the event that:
  - i. The Applicant fails to supply to the Housing Services Division, in a form satisfactory to the GM, such information relating to the ownership of its shares as the Housing Services Division may require from time to time or;
  - ii. Without the written consent of the GM first had and obtained:
    - A. the Applicant issues or redeems any of its shares or transfers any of its shares;

- B. there is a sale or sales of the shares of the Applicant which result in the transfer of the legal or beneficial interest of any of the shares of the Applicant; or
- C. the Applicant amalgamates, merges or consolidates with any other corporation; and

The result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Applicant, or the requested information is not provided, the GM shall have absolute discretion to cease any future Loan advances and/or seek full repayment of any outstanding Loan under this Program together with any applicable Program Interest Rate in accordance with paragraph 20 f.

- m. In the event of the disposition, sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of all or a portion of the subject Site containing the Eligible Unit(s) for which all or a portion of a Loan under this Program remains outstanding shall not be permitted except where:
  - i. the Housing Services Division is provided written notice of the sale including the name of the purchaser and closing date of the purchase and the transfer of ownership includes the assignment of any remaining Loan under this Program to the purchaser subject to the approval of the GM in their sole discretion and on such terms and conditions as the GM deems appropriate.

If i. above is not complied with, the disposition, sale conveyance, transfer or entering into of any agreement of sale of transfer shall be deemed a default under the applicable Loan Agreement and result in a requirement for no Loan advance being provided if not already provided or require the immediate repayment of any portion of the Loan advanced together with the applicable interest in accordance with paragraph 20 f.

- n. The Housing Services Division will require, at its sole discretion, any specific insurance terms required to be met to protect the City's interest.
- o. Applicants shall be required to enter into a Loan Agreement with the City. This agreement shall be entered into prior to the Loan advance, with provisions including, but not limited to, the terms and conditions set out herein and such additional conditions, including additional conditions for the advance of the loan, as determined by the GM in their sole discretion, and if deemed a requirement by the GM, the provision of security including a mortgage, General Security Agreement, a Site Specific General Security Agreement or such other

security as determined by the GM in their sole discretion such as, but not limited to, a mortgage registered on title upon the subject Site, personal guarantees and/or corporate guarantees.

21. Notwithstanding paragraph 20 above, a Loan advanced along with any other applicable Program Interest Rate charges required in accordance with this Program and the applicable Loan Agreement, shall be forgiven and not required to be repaid to the City where the following condition of forgiveness has been met to the satisfaction of the GM:
  - a. The rent charged to a tenant(s) for each Eligible Unit subject to a Loan under this Program from the date on which occupancy has been approved by the City in writing for all Eligible Unit(s) on the Site subject to a Loan under this Program through to the 15<sup>th</sup> anniversary of such same date did not exceed 100% of the AMR for the City of Hamilton as surveyed annually by CMHC with any applicable rent increases having been in accordance with a rental protocol forming part of the Loan Agreement as determined by the GM in their sole discretion; and
  - b. The Applicant has complied with all terms of the Loan Agreement for the entirety of the Loan term.
22. Where the condition of forgiveness contained in paragraph 23 has not been met for all Eligible Units which were the subject of a Loan under this Program and was not cured within 30 days' of written notice being provided by the City, or such other period as determined at the discretion of the GM, the Loan shall be in default and subject to repayment in accordance with paragraph 20 i.

## C. PROGRAM APPLICATION CRITERIA

A complete Program application shall be submitted to the Healthy and Safe Communities Department through the Housing Services Division. Required documents and information forming a complete application shall be identified within the Program's application form.

With respect to applications for Forgivable Loans, Applicants shall be required to submit information to assist with determining their financial capabilities to complete the project subject to the Program application and to identify any potential financial risks to the City. Information required to be submitted is at the discretion of the Housing Services Division and may include but may not be limited to, a financial risk assessment, personal/corporate net worth statements and/or business plan.

Any additional information may be requested by the Housing Services Division to determine the Applicant's eligibility.

## D. PROGRAM ADMINISTRATION

Housing Services Division staff, in collaboration with staff from the Economic Development Division, as required, will review applications for eligibility in accordance with the HHCIPA, HHCIIP, the Program terms contained herein and in collaboration with other City departments as required. Acceptance of the application by the City in no way implies application approval.

The Site and Applicant will be the subject of due diligence undertaken by the City prior to any recommendation on the application being brought to City Council, or its delegate, for consideration and prior to payment of the Grant and/or Loan advance being provided. This will include, but may not be limited to, confirmation of the following: all municipal property taxes are paid and current on the subject Site, property insurance is current and payments up to date, mortgage payments are current and up to date, the Site is in compliance with Zoning By-law regulations, that there are no outstanding property standards violations or orders, Building Code violations or orders or Fire Code violation or orders, any violations of law or any orders by any other judicial, governmental or regulatory authority, regarding the subject Site or the development on the subject Site and that the Applicant is not in litigation with the City. Failure to comply with any of the above will result in an application not being recommended for approval to City Council or its delegate, except where otherwise directed by City Council, or its delegate, or, if the application has been approved, non-payment of a Grant or advance of a Loan under this Program.

No decision will be made on an application until occupancy has been approved by the City in writing for all Eligible Unit(s) required for eligibility under this Program.

Where an application has been submitted but not yet approved by City Council, or its delegate, and the subject Site is sold/transferred to a new owner, the City may permit the transfer or assignment of the application to the new owner at the sole, absolute and unfettered discretion of the GM. An assignment or transfer may require the assignee or transferee to apply, assignment or transfer agreement and/or such other documents as determined by the GM in their sole, absolute and unfettered discretion. The new owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches and financial risk, to the satisfaction of the City prior to the assignment being considered by the GM.

Applications under this Program are subject to approval, and the availability of funds, at the absolute discretion of the GM.

A Grant under this Program will be paid upon occupancy being approved by the City in writing for all Eligible Unit(s) required for eligibility under this Program.

For applications respecting a Forgivable Loan:

- Securities required to be provided by the Applicant respecting a Forgivable Loan under this Program will be determined by the GM in their sole, absolute and unfettered discretion;
- The Loan will not be provided unless a written request for the Loan advance has been made by the Applicant; and
- Approved Applicants shall be required to enter into a Forgivable Loan Agreement with the City containing the terms and conditions set out in this Program description and such additional terms and conditions as required by the GM or City Solicitor in their sole absolute and unfettered discretion. The form of the Grant/Forgivable Loan Agreement shall be to the satisfaction of the City Solicitor. Respecting applications for Forgivable Loans, the Housing Services Division may require the Applicant to register the Forgivable Loan Agreement on title immediately upon execution of the agreement.

The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the City to ensure the goals and purpose of this Program and the HHCIP are met.

The City is not responsible for any costs incurred by the Applicant in any way relating to the Program, including without limitation, costs incurred in anticipation of an application approval or Grant/Loan being provided.

Applications to this Program not yet approved by City Council, or its delegate, shall be subject to any changes to the terms of this Program which are required by the CMHC as a condition of funding to the City under the HAF and/or approved by City Council, or its delegate, prior to the application being approved.

A Program application may be denied by City Council, or its delegate, if the development is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that City Council's decision on the Program application will not fetter its discretion on *Planning Act* applications.

City Council may discontinue this Program at any time. However, Applicants with approved applications will still continue to receive the Grant/Forgivable Loan subject to meeting the Program terms contained herein.