

Proposed Pilot Downtown Hamilton Office Conversion Grant Program Terms

DOWNTOWN HAMILTON OFFICE CONVERSION GRANT PROGRAM



A. PROGRAM DESCRIPTION

The Downtown Hamilton Office Conversion Grant Program (the Program) is intended to provide financial incentives to support the creation of new housing and/or hotel accommodations within all or a portion of existing purpose-built office buildings located within Hamilton's Central Business District.

The Program will provide Grants to improve the financial viability of such conversions and support important goals respecting Downtown revitalization efforts including reducing the City's surplus office supply and corresponding vacancy rate, increasing housing supply, supporting the tourism and hospitality industry and event attraction and increasing Downtown's resident population to support added activity, vibrancy and demand for commercial services and amenities.

A maximum of two applications are permitted per Site under this Program of which:

- 1) no more than one application shall be for funding in respect of feasibility studies required by the City as part of a Site Plan application for Eligible Units on a Site; and
- 2) no more than one application for funding supporting the construction of Eligible Units.

The maximum Grant under this Program for feasibility studies required by the City as part of a Site Plan application respecting Eligible Units on a Site is the lesser of:

- 1) 50% of the total cost of the feasibility studies to a maximum of \$20,000; or
- 2) Available funding under this Program.

The maximum Grant under this Program for construction of Eligible Units on a Site is the lesser of:

- 1) 100 Eligible Units at the prescribed rates contained in Table 1;
- 2) The actual costs to construct the Eligible Units; or
- 3) Available funding under this Program.

Table 1 – Prescribed per Eligible Unit Grant Amounts

Use	Minimum *Bedrooms	Grant Amount
Residential	0 Bedroom (studio)	\$10,000 per Eligible Unit
	1 Bedroom	\$12,500 per Eligible Unit
	2 Bedroom	\$15,000 per Eligible Unit
	3+ Bedroom	\$20,000 per Eligible Unit
Hotel	n/a	\$10,000 per Hotel Room

**For the purposes of this Program, 'Bedroom' shall have the same meaning, and be subject to the same requirements and regulations, as that established and required under the Ontario Building Code, as amended.*

This Program applies to Sites wholly located within Sub Area 1 – Central Business District of the Downtown Hamilton Community Improvement Project Area as defined through the Revitalizing Hamilton’s Commercial Districts Community Improvement Project Area By-law (RHCD CIPA).

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

- The Manager of Commercial Districts and Small Business in respect of Grant applications for feasibility studies to a maximum of \$20,000; and
- For Grant applications respecting the construction of Eligible Units:
 - The General Manger of Planning and Economic Development Department (GM) for Grants up to a maximum of \$200,000; or
 - City Council for total Grants greater than \$200,000.

An Applicant to this Program may include the property owner or the lessee of all or part of a building subject to a long-term lease of no less than 99 years. An application by a lessee shall be accompanied by a letter of consent to apply to this Program from the registered property owner.

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 fees (except where exempt through provision of affordable housing), 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 associated with the building subject to an application under this Program.
- 'Eligible Unit' shall include only the following which shall also be in compliance with Section B, Paragraph 2 herein:
 - A residential 'Dwelling Unit' or 'Dwelling Unit, Mixed Use', as defined in Hamilton Zoning By-law 05-200, as amended; or
 - A 'Hotel Room' meaning an individual room(s) providing sleeping accommodations and sanitary facilities, which may or may not include kitchen facilities, and which comprises part of a 'Hotel' use as defined under Hamilton Zoning By-law 05-200;and shall exclude any of the foregoing that is owned in whole or in part or operated by or leased by an Education Establishment as defined herein.
- 'Educational Establishment' shall mean a non-for-profit university or college (established pursuant to the Ontario Colleges of Applied Arts and Technology Act, 2002, and its regulations) for academic instruction receiving funds from the Province of Ontario and shall include a hospital or institution.

The Planning and Economic Development Department, through the Economic Development Division, 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 Revitalizing Hamilton's Commercial Districts Community Improvement Plan (RHCD CIP).
2. Eligible Unit(s) shall be:
 - a. Located on a Site within Sub Area 1 – Central Business District of the Downtown Hamilton Community Improvement Project Area as defined through the RHCD CIPA;
 - b. Planned to be constructed in a private, non-public-sector owned building containing a minimum of 5,000 square feet of purpose-built office space; and
 - c. Be located above the ground floor and occupy areas of the building where the last confirmed use was an 'Office', as defined in Hamilton Zoning By-law 05-200.

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. A minimum of 10 new Eligible Units must be planned/created on a Site for eligibility under this Program subject to the Grant limits provided for in Section A herein.
5. Eligible Units may be established via a long-term leasehold provided the lease term is no less than 99 years.
6. An Applicant to this Program must be the registered owner of the Site or be the lessee of all or part of the building being converted to accommodate Eligible Unit(s) and which is the subject of a long term lease in accordance with paragraph 5 herein.
7. Grants are only payable to the approved Program Applicant and cannot be assigned or directed to any other payee including but not limited to any subsequent owner of the site unless provided for in the Program Administration section herein.
8. Applications and approvals under this Program shall be provided on a first come first serve basis, subject to the availability of funding, and with priority given to conversion proposals containing the greatest number of Eligible Units and/or those proposing the greatest number of units containing two (2) or more bedroom units.
9. Prior to any application approval and/or Grant payment being provided:
 - a. There shall be compliance with the Building Code Ontario Regulation 332/12 as amended or replaced, the Fire Code Ontario Regulation 213/07 as amended or replaced, property standards orders, all applicable law and any other order or directive by any judicial, governmental or regulatory authority; and
 - b. Any tax arrears on the Site shall be paid.
10. Approval and the receiving of a Grant under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same Site under any other available municipal program with the exception of the following which shall not be permitted to be combined with Grant provided in respect of the construction of Eligible Units under this Program:
 - a. A municipal tax increment or tax cancellation-based program; and/or
 - b. The Rapid Transit Multi-Residential Rental Housing Incentive Program or the Housing Acceleration Incentive Program where the incentive to be provided under

either program is a forgivable loan related to the provision of affordable housing units.

11. Applications under this Program are subject to approval, and the availability of funds, as follows:
 - a. The Manager of Commercial Districts and Small Business in respect of Grant applications for feasibility studies to a maximum of \$20,000; and
 - b. For Grant applications respecting the construction of Eligible Units:
 - i. The General Manger of Planning and Economic Development Department (GM) for Grants up to a maximum of \$200,000; or
 - ii. City Council for total Grants greater than \$200,000.
12. Without limiting the discretion as set out in paragraph 11 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, 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. For the purposes of this section Applicants shall include but not be limited, jointly and severally to the following: (a) the Applicant identified on the application form; (b) a, if a corporation, any person or entity with an interest in the corporation, any shareholder of the corporation, or any officer or director of the corporation, as determined by the GM in their sole, absolute and unfettered discretion; (c) if a partnership or limited partnership any partner or limited partner and if a partner or limited partner is a corporation any person or entity with an interest in the corporation, any shareholder of the corporation, or any officer or director of the corporation, as determined by the General Manager in their sole, absolute and unfettered discretion.
13. Without limiting the discretion as set out in paragraph 11 herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in is 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, 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.
14. Without limiting the discretion as set out in paragraph 11 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 City Council, or its delegate 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.

15. Without limiting the discretion as set out in paragraph 11, 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 15, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 15 shall apply jointly and severally to each of them.
16. Buildings use, development and work to create the Eligible Units 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 building use, development and work to create the Eligible Units.
17. 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.
18. 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 the creation of the Eligible Units or any other decisions by City Council regarding the subject Site or creation of the Eligible Units.
19. Approval of a Program application by City Council, or its delegate, may provide for a reduced Grant amount such that no Grant 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.

20. For Grants respecting feasibility studies required by the City as part of a Site Plan application, the following additional requirements apply:
 - a. An eligible feasibility study shall include any study/report required by the City as part of a Site Plan application submitted in respect of the development of Eligible Units;
 - b. Applications shall be accompanied by a proposed work plan and quote for the eligible feasibility study;
 - c. A Grant may be reduced or cancelled if the feasibility study is not completed, not completed as approved, not completed within two (2) years of the City's application approval or if the consultant conducting the study is not paid in full;
 - d. Completed feasibility studies will be reviewed and approved by the City's Manager of Commercial Districts and Small Business (Manager) for consistency with the quote and work plan submitted in support of the application and for compliance under the Program terms contained herein. If the feasibility study is found to be insufficient by the Manager, in their sole, absolute and unfettered discretion, the Grant may be reduced or cancelled unless it is resubmitted in a form and content satisfactory to the Manager, in their sole, absolute and unfettered discretion;
 - e. The Applicant shall be required to submit, to the satisfaction of the City, one digital copy of the completed feasibility study, invoices for the subject feasibility study and proof that the feasibility study consultants have been paid in full; and
 - f. The City reserves the right to audit the cost of the feasibility study prior to advancing the Grant.

21. For Grants respecting the construction of Eligible Units the following additional requirements shall apply:
 - a. Eligible Units shall be constructed and be capable of occupancy within two (2) years of the date of application approval by City Council or their designate. A one-time, extension of up to one (1) year may be granted for phased/comprehensive developments or due to development specific extenuating circumstances outlined in a formal request submitted by the Applicant to the City prior to the lapsing of the above time period and subject to consideration and approval at the sole discretion of the General Manager;

- b. Applications must be submitted prior to the issuance of a Building Permit for the construction of Eligible Units subject to the Program application. An Applicant shall assume the risk of any costs incurred after an application has been submitted but prior to approval under this Program having been received;
- c. A Grant shall not exceed the cost to construct the Eligible Units, excluding HST, with such costs to be confirmed through the submission of a Quantity Surveyors Report and accepted at the sole discretion of the City. Eligible construction costs may include soft costs required for the construction of the units such as, but not limited to, architectural and engineering services but shall not include any fees levied by the City including those associated with Building or Planning applications. The Quantity Surveyor's Report may be subject to a City or independent third-party audit, at the Applicant's expense, where deemed required by the City in its sole discretion; and
- d. A Grant in respect of the construction of Eligible Units will be payable in a single lump-sum subject to the following conditions being met:
 - i. All Eligible Units have been subject of Building Permit issuance and are capable of being occupied as determined by the City in its sole discretion;
 - ii. The Applicant has submitted a Quantity Surveyors Report, or such other means confirming total cost for the construction of the Eligible Units at the discretion, and to the satisfaction of, the City; and
 - iii. demonstrated satisfactory compliance with all Program terms contained herein and the required executing legal agreement as determined by the City in its sole discretion; and
- e. A Project Monitor may be required unless waived at the sole, absolute and unfettered discretion of the Economic Development Division, and if required, the Applicant must provide supervision of the development by a Project Monitor acceptable to the Economic Development Division. The Project Monitor will be at the cost of the Applicant and shall provide proof, to the satisfaction of the Economic Development Division, that the structural, mechanical and electrical work complies with the approved plans and specifications and all applicable law.

C. PROGRAM APPLICATION CRITERIA

A complete Program application shall be submitted to the Economic Development Division prior to

- The commencing of work on a eligible feasibility study for Grant applications respecting the funding for feasibility studies required by the City through a Site Plan application.
- The issuance of Building Permit for Grant applications respecting the construction of Eligible Units.

Required documents and information forming a complete application shall be identified within the Program's application form. The application date for the purposes of the Program will be the date on which City staff have deemed the application complete in their sole discretion.

D. PROGRAM ADMINISTRATION

Economic Development Division staff will review applications for eligibility in accordance with the RHCD CIP, RHCD CIPA, 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. 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, 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 under this Program.

If an application is approved, the Applicant will be provided an approval letter that outlines the terms and conditions of the Grant.

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 submit an application, 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.

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 RHCD CIP 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 being provided.

Applications to this Program not yet approved shall be subject to any changes to the terms of this Program approved by City Council prior to the application being approved.

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

With respect to Grant applications for feasibility studies the following shall also apply:

- Upon feasibility study completion, paid Invoices for the subject feasibility study will be supplied to the City along with a digital copy of the completed feasibility study. The eligible Grant payment will be based on the City's review, satisfaction and acceptance of the feasibility study and the aforesaid invoices and all supporting City of Hamilton reports and documentation submitted outlining the full scope and cost of the work completed. Any and all of these costs may be subject to audit, at the expense of the Applicant, at the City's discretion;
- Once the terms of the Program have been satisfied, a cheque will be requisitioned and issued, in the approved Program Applicant's name, in an amount equal to the maximum identified in Section A herein. Grant calculation and payment exclude HST;
- If a Site is sold after a Grant application is approved under this Program, but before the feasibility study is completed and invoices have been submitted in accordance with paragraph 20 d. and e. herein, the Grant application and approval are cancelled, and no grant shall be payable; and
- If a Site is sold after a Grant application is approved under this Program and after the City has determined the completed feasibility study and invoices are in compliance with paragraph 20 d. and e. herein, the Grant will continue to be paid to the approved Applicant and provided that all other applicable terms contained herein are satisfied at the discretion of the City.

With respect to Grant applications for the construction of Eligible Units the following shall also apply:

- No decision will be made on an application until a building permit application for the Eligible Units has been submitted to the City's Building Division;
- If a Site is sold after a Grant application is approved under this Program, but before the requirements of Section B, paragraph 21 c. herein have been met, the Grant application and approval are cancelled, and no grant shall be payable; and
- If a Site is sold after a Grant application is approved and requirements of Section B, paragraph 21 c. have been met, the Grant will continue to be paid to the approved Applicant if the approved Applicant incurred the cost to construct the Eligible Units and provided that all other applicable terms contained herein are satisfied at the discretion of the City.