

GREEN Hamilton Development Tax Increment Grant Program



A. PROGRAM

DESCRIPTION

The GREEN Hamilton Development Tax Increment Grant Program (the Program) provides grants to support the development or retrofit/reuse of buildings that achieve, at a minimum, the voluntary compliance with the City of Hamilton's Green Building Standards and that will generate new municipal tax revenue to the City. Grants under the program are intended to serve as an economic catalyst for the development of environmentally sustainable buildings to support future population and employment growth.

As a tax increment-based program, Grants are provided relative to the actual increase in municipal property taxes generated as a result of a Site's development or the retrofit/reuse of an existing building.

Grants under this Program are provided after project completion. The duration and value of grants provided are illustrated in Table 1 herein and they are based on the achievement of the minimum performance standards.

Table 1: Prescribed Grant Levels

	Grant Level 1	Grant Level 2	Grant Level 3
Number of Annual Grant Payments	3	4	5
Annual Grant as a Percentage of Actual Municipal Property Tax Increment	80%*	90%*	100%*
Applicable Performance Standard		Meets the definition of a "Tier 2 Building" per Grant Level 1 and the following minimum alternative GHGI (kgCO ₂ /m ² /yr) limits:	Meets the definition of a "Tier 2 Building", is a Net Zero Emissions buildings or meets the Tier 4 National Energy Code of Canada requirements per Grant Level 2, and Meets the following minimum alternative embodied carbon reduction percentage:
Residential Part 3 and Part 9 Buildings per the Ontario Building Code that are less than 6 storeys in height	Meets the definition of a "Tier 2 Building"	0** (Net Zero Emissions)	20%
Residential Part 3 Buildings per the Ontario Building Code that are 6 storeys or greater in height		0** (Net Zero Emissions)	
Commercial Office		0** (Net Zero Emissions)	
Commercial Retail		0** (Net Zero Emissions)	
Industrial		Tier 4 National Energy Code of Canada Voluntary Compliance	

* The total Grant provided over the maximum applicable term of this Program shall not exceed the lesser of the estimated or actual costs of the project. Costs will be determined by the City after a review of a Quantity Survey report submitted by the Applicant after completion of the Project which will be compared to the estimate of costs prepared by a Quantity Surveyor submitted with the application for the Grant.

** A net zero emissions building is one that is highly energy-efficient and produces on-site, or procures, carbon-free and or renewable energy in an amount sufficient to offset the annual carbon emissions associated with its operations or simply eliminates operational carbon emissions altogether.

For the purposes of this Program:

- 'Site' shall mean all properties forming part of the development for which a GREEN Hamilton Development Tax Increment Grant has been approved

under the Program or is the subject of an application for a GREEN Hamilton Development Tax Increment Grant under the Program, as the context herein requires;

- An 'Eligible Project' shall mean a development located within the GREEN Hamilton CIPA that is subject to a site plan application and the City of Hamilton's Green Building Standards and which meets one of the Grant Levels contained in Section A, Table 1;
- The 'Hamilton Green Building Standards' or (HGBS) means those building standards as endorsed by Council on October 9, 2024 and subsequently on April XX, 2025 (TBD), as amended over time;
- A 'Tier 2 Building' is a building that is subject to the City of Hamilton's Green Building Standards and, at a minimum, meets the applicable "Tier 2" metrics found in the *Energy and Carbon* Impact Category, and one (1) other "Tier 2" metric, at the Applicant's discretion, from each of the remaining Impact Categories of Ecology and Biodiversity, Water, Waste Management and Materials, and Community and Urban Design found in the City of Hamilton's Green Building Standards Guidebook. A building is certified as "Tier 2" through the submission of the Post Construction Submission requirements, per the applicable Tier 2 metric found within the Green Building Standards Guidebook and to the satisfaction of the City of Hamilton or a third-party review by qualified professionals, at the Applicant's expense;
- A 'Qualified Professional' shall mean those with energy modelling experience, such as a certified or registered professional engineer, architect, engineering technologist or certified energy manager, who can conduct a building energy and emissions modelling analysis. The determination of an acceptable Qualified Professional under this Program shall be at the sole discretion of the City; and
- An 'Energy Modelling Report' shall mean a computer energy simulation using widely accepted software, for example Energy Plus and eQUEST (version 3.64 or higher), that meets the requirements as set out in ASHRAE 90.1-2013, G2.2.

This Program will apply to properties located within the City of Hamilton in accordance with the Growing a Resilient and Environmentally Sustainable Hamilton Community Improvement Project Area (GREEN CIPA) By-law.

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

Grants under this Program shall be provided to the Applicant who is the registered owner of the subject property except where provided for in Section C, Program Administration.

The City retains the right to assess the reasonableness of costs as well as the determination of cost eligibility and the confirmation of the designation of a "Tier 2 Building" or higher, via a third-party audit, at the Applicant's expense, under the terms of this Program.

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, administration fees, appraisals, inspections, Municipal Property Assessment Corporation (MPAC) post development assessment estimates, legal and registration fees, where applicable.

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 GRANT CRITERIA

1. Applications to this Program must meet the goals of the Growing a Resilient and Environmentally Sustainable Hamilton Community Improvement Plan (GREEN CIP).
2. This Program will apply city-wide as defined through the GREEN CIPA By-law.
3. Notwithstanding Paragraph 2, this Program shall not apply to a property(ies) or development where a designated heritage building has been demolished or for a development for the purposes of a proposed adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, self-storage facility, lodging house or a residential care facility as defined in the applicable Zoning By-law. In addition, developments not subject to a Site Plan requirement are ineligible to participate in this Program.
4. This Program shall not apply and any grant pursuant to the Program shall not be paid where the development does not generate an increase in municipal property taxes.
5. An Applicant to this Program must be the registered owner of the Site and grant under the Program shall only be payable to a successful Applicant and a grant cannot be assigned or directed to any other payee unless otherwise provided for in the Program Administration section herein.

6. Prior to any application approval and/or Grant payment being provided:
 - a. Any outstanding Building Code, Fire Code or property standards orders or any other order applicable to the Site by any judicial, governmental or regulatory authority shall be rectified; and
 - b. Any tax arrears on the subject Site shall be paid.
7. The Applicant will be required to enter into a Grant Payment Agreement with the City that sets out the conditions of the Grant. Before any Grant is provided, the Applicant and Site shall be in compliance with the Program's requirements and conditions and all additional requirements as set out in the Grant Payment Agreement as determined by the General Manager of Planning and Economic Development (GM) .
8. Subject to the compliance with the terms and conditions of the Grant Payment Agreement, the first-year payment of the Grant is payable as follows:
 - a. the development of the Site being deemed complete by the City in accordance with paragraph 15;
 - b. the Site has been fully reassessed by the MPAC subject to the application of Paragraphs 9 and 10;
 - c. one full calendar year of taxes reflecting the reassessed value resulting from the development have been paid in full;
 - d. the development meets the requirements of the Grant Level being sought in Section A, Table and must reflect the Grant Level identified in the Program application submission; and
 - e. all municipal property taxes being paid in full and subject to the application of section 12 herein no unresolved assessment appeals in respect of the Site and confirmation that the assessment will not be appealed.
9. For non-condominium residential, commercial and industrial developments, the first year Grant payment shall be regardless of the number of units/floor area occupied. However, where the assessment and resulting tax uplift to the municipality will be dependent on the occupancy of a unit(s), the City may, at its sole, absolute and unfettered discretion, after the submission of a written request from the Applicant, delay the qualifying first year payment to a tax year:
 - a. after which a full reassessment has occurred of the unit(s) as occupied; and
 - b. which is no later than two years from when the initial grant payment would have otherwise been eligible for payment.

10. For condominium and mixed-use condominium developments (including commercial, residential or industrial condominiums):
 - a. the first year Grant payment shall require 100% of the condominium units within the development to have been fully assessed. The City may, at its sole, absolute and unfettered discretion, after the submission of a written request from the Applicant permit the first year of the Grant to be payable during the calendar year in which 75% of the condominium units have been assessed;
 - b. the post-development municipal property taxes are calculated by taking the sum of the municipal property taxes of each of the assessed condominium units within the development. The Grant is calculated as a whole, and not calculated on a per condominium unit basis. Where the City has accepted a request that the first year of the Grant be payable during the calendar year in which 75% of the condominium units have been assessed, the Grant payments shall be calculated based only on the 75% of units fully assessed and shall continue to be paid only on these units over the duration of the Grant term without future amendment; and
 - c. If the one-year period following the date of registration of the Plan of Condominium for the development expires after December 31 of the year in which condominium units within the development are fully assessed in accordance with 8.b.i. herein, the Grant will be payable to the Applicant by the end of the first quarter of the year following the year in which the applicable condominium units within the development are fully assessed.
11. Notwithstanding paragraph 8, and subject to written approval by the Director of Economic Development, a percentage of the total Grant payment may be provided for phased/comprehensive/subdivision developments where a portion of the development will meet the aforementioned requirements with such Grant payments being apportioned based on the number of phases completed that meet the requirements set out in Section A, Table 1. Such partial Grant payments shall be limited to those developments where the incremental tax increase for individual phases can be determined to the City's satisfaction.
12. If the Applicant, third party or the municipality has appealed the change in the Site's assessment, the Grant will not be advanced until the appeal has been finally determined through the Assessment Review Board or any other permitted means and revised property taxes have been calculated and adjusted. However, in the case of a condominium development or mixed use condominium developments (including commercial, residential or industrial condominiums), the annual Grant may, as determined by the GM in their sole, absolute and unfettered discretion, continue to be payable to the Applicant but reduced on a pro-rated basis if an appeal has been filed with the MPAC by any of the condominium unit owners, whether such owner is the initial purchaser or a subsequent

purchaser. The pro-rated holdback will not be released until the appeals are finally determined through the Assessment Review Board or other permitted means, and the revised property taxes have been calculated.

13. In the event of an appeal of assessment/taxes, the total value of the Grant provided under the Program will be reduced by:
 - a. the amount by which municipal property taxes have been cancelled or reduced for the Site pursuant to any other City programs and/or tax appeals under Sections 357 and 358 of the *Municipal Act*;
 - b. the amount by which municipal property taxes have been cancelled or reduced for the Site pursuant to a Request for Reconsideration; and
 - c. the amount by which municipal property taxes have been reduced or cancelled for the Site pursuant to any relief or reduction permitted under any legislation or order of any court or the Assessment Review Board.
14. The pre-development municipal property taxes used for determining the actual municipal property tax increment are those from the most recent tax year which represents the pre-development condition of the Site, as determined by the City.
15. For the purposes of this Program, a development shall be deemed to be complete where:
 - a. Occupancy of the development has been approved permitted by the City subject to tenant improvements and, in the case of a condominium development, the Plan of Condominium has been registered.
 - b. The development has achieved the designation of a "Tier 2 Building", as defined in Section A and as stated and in effect at the time of an application approval under this Program, in addition to the Post Construction submission requirements, per the City's Green Building Standards Guidebook, prepared by a Qualified Professional(s), demonstrating the achievement of the metrics in Section A, Table 1 for the applicable Grant Level being targeted. For all Grant Levels, the submission, including the Post Construction submission requirements, per the City's Green Building Standards Guidebook, is subject to the satisfaction of the City or to an independent third-party reviewer, at the Applicant's expense at the sole discretion of the GM.
16. The total Grant provided over the maximum applicable term of this Program shall not exceed the lesser of the estimated or actual costs of the project. Costs will be determined by the City after a review of a Quantity Survey report submitted by the Applicant after completion of the project which will be compared to the estimate of costs prepared by a Quantity Surveyor submitted with the application for the Grant.

17. The eligible amount of the increase in municipal property taxes shall exclude special charges, including Business Improvement Area levies and any other charge identified within the Grant Payment Agreement, from the calculation.
18. Annual Grant payments shall not exceed the first year's Grant payment regardless of future increases in the municipal property taxes levied for each year that a Grant payment is to be provided. An annual Grant payment may be less than the first year's Grant payment where municipal taxes levied in a year in which a Grant payment is to be provided results in a lower Grant being paid than that provided in the first year in which case the lesser amount shall be that year's Grant amount.
19. For residential condominium developments, the units must be assessed as residential condominiums. If the development is assessed as multi-residential or new-multi-residential, no Grant will be payable without City Council approval.
20. The annual Grant will be calculated by taking the difference between the post-development municipal taxes (for the first full calendar year of paid taxes) and the pre-development municipal taxes as determined in accordance with paragraph 14 herein and applying the percentage based on the applicable Grant Level as described in Section A, Table 1.
21. If an Applicant is redeveloping a portion of the Site, the Grant will be based on that portion of the Site only. The Applicant will be required to provide an estimate of the annual property assessment valuation for the portion of the Site subject to the Program application from the MPAC for each year in which a Grant payment is to be provided for calculation purposes.
22. Work on the portion of the improvement/development that is at or above grade shall commence no longer than two years from the date an application under this Program was approved by City Council and the improvement/development shall be completed and capable of being fully occupied, and, in the case of a condominium development also have a Plan of Condominium registered, within five years from the date an application under this Program was approved by City Council.

The General Manager of Planning and Economic Development at their sole, absolute and unfettered discretion may grant extensions to the time periods set out in this Section 22 for phased/comprehensive developments or due to development specific extenuating circumstances after the submission to the City of a written request, prior to the lapsing of the applicable time period set out in this Section 22, which describes the reasons for the request including a detailed description of any extenuating circumstances if applicable.

23. Approval and the receiving of Grants 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 any other tax increment-based or tax cancellation program which shall not be permitted to be combined with assistance under this Program.

24. A Grant under this Program will be provided to an approved Applicant if all terms and conditions of this Program have been satisfied including payment of all municipal property taxes. Notwithstanding any other term contained in this Program description, in the case of condominium developments, confirmation of payment of all taxes shall be limited to the period up to development completion and for any portion of the development retained by the Applicant after development completion.
25. If a building(s) erected on the Site is demolished before the applicable Grant period expires, the remaining Grant to be provided under this Program shall be forfeited.
26. A Grant under this Program shall not be permitted to be assigned.
27. 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:
 - a. the Applicant fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require or;
 - b. without the written consent of the City first had and obtained:
 - i. the Applicant issues or redeems any of its shares or transfers any of its shares;
 - ii. 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;
 - iii. 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, then future Grant payments under the Program shall cease at the absolute discretion of the City.

28. Applications under this Program are subject to approval at the absolute discretion of City Council and subject to the availability of funds.
29. Without limiting the discretion as set out in paragraph 28 herein, City Council, 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, 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 City in its sole, absolute and unfettered discretion.

30. Without limiting the discretion as set out in paragraph 28 herein, City Council, 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 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 Site or any other judicial, regulatory or governmental order in respect of the Site.
31. Without limiting the discretion as set out in paragraph 28, herein, City Council, 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 under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this paragraph 31, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 31 shall apply jointly and severally to each of them.
32. Buildings uses and developments 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 development.
33. A Program application may be denied by City Council 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.
34. Approval of a Program application by City Council may provide for a reduced Grant amount such that no Grant is payable in respect of any portion of the development that is the subject of the Grant application 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 Program 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, including but not limited to, all the MPAC post-development assessment estimates required by the City.

C. PROGRAM APPLICATION CRITERIA

Potential Applicants shall be required to have a pre-application consultation meeting with City staff in order to determine Program eligibility, proposed scope of work, project timing, etc.

A complete Program application shall be submitted to the Economic Development Division prior to the commencement of eligible works that are the subject of a Program application. 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.

An application fee is payable upon submission of application. The fee will be authorized through a user-fee by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council and will be identified on the Program's application form. Application fees are non-refundable including in the event an application is not approved.

Applications shall include plans, estimates, contracts, quantity survey, and other details as may be required to satisfy the City as to the cost of the project and any other details as may be required to satisfy the City as to the cost of the development's conformity with the objectives of this Program and the GREEN Hamilton CIP. The City may also require the submission of a Business Plan for the proposed development.

Applications under this Program will not be accepted if there is an outstanding dispute, proceeding or process including but not limited to: a Request for Reconsideration through the MPAC, an outstanding Assessment Review Board appeal, an outstanding divisional court appeal or an outstanding *Municipal Act* appeal, relating to the assessment of the Site or in respect of property taxes related to the Site. The Program application will only be accepted once any of the above applicable matters have been finally resolved and the revised (if applicable) property taxes have been calculated.

Applicants may be required to obtain a post-development assessment estimate from the MPAC as part of submitting a Program application. Developments which are the subject of this requirement will be identified in the Program's application form.

D. PROGRAM ADMINISTRATION

Economic Development Division staff will review applications for eligibility and completeness in accordance with the GREEN CIPA, GREEN CIP, the Program terms contained herein and in collaboration with other City departments as required. Acceptance of the application by the Economic Development Division in no way implies Grant 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 for consideration and prior to the Grant payment 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 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 Site or the development on the 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 approved or, if the application is approved, non-payment of a Grant under this Program.

Where the development requires approval of a Site Plan, a conditional Site Plan approval shall have been obtained from the City prior to City Council consideration of an application under this Program. Where a conditional Site Plan approval contains conditions which, until satisfied, may impact a post-development assessment of the development including but not limited, requirements to obtain Minor Variances through the Committee of Adjustment, the City may require these conditions to be satisfied prior to City Council consideration of the application.

Where an application has been submitted but not yet approved by City Council and the Site is sold/transferred to a new owner, the City may permit the transfer or assignment of the application, and any eligible costs incurred from the original date of 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, to the satisfaction of the City prior to the assignment being considered by GM.

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

Approved Applicants shall be required to enter into a Grant Payment Agreement with the City containing (but not limited to) the terms and conditions set out in this Program description.

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 GREEN CIP are met.

Notwithstanding any other term or condition of this Program, where an application has been approved by City Council, the application and the associated approval, including the assignment of any eligible costs incurred by the approved Applicant since the date of application submission, may be assigned to a future intended owner of the Site only in such instance where the registered owner of the Site at the time of City Council approval was the City of Hamilton, CityHousing Hamilton Corporation or any other entity wholly owned by the City of Hamilton and where the assignment will further facilitate the development or redevelopment of the Site and/or support the achievement of strategic City priorities/objectives. It is understood that one effect of such an assignment shall be that the future intended owner will assume all requirements and obligations required under this Program and become the recipient of any future Grant payments which may be eligible under the Program at such time as they become the registered owner. In such an instance, a request to assign the application shall be submitted in writing to the City by the existing owner and the City Council approved Applicant with accompanying rationale and be subject to approval by City Council in its sole discretion. The future intended owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches, to the satisfaction of the City prior to the assignment being considered by City Council. An assignment or transfer may require that the assignee or transferee submit an application, assignment or transfer agreement and/or such other documents as determined by the GM in their sole, absolute and unfettered discretion.

Once the development is complete, has been reassessed by the MPAC, and after one (1) full calendar year of taxes reflecting the reassessment have been paid, the City will undertake updated due diligence, including, but not limited to, ensuring that the Site is not in tax arrears and that the Site and development are still in conformity with the terms of the Grant Agreement. The City will calculate the actual tax increment and Grant payment. The City will then issue payment of the Grant in the form of a cheque in the amount specified as per the calculation of the actual Grant payment contained in Section A and B herein. If the Site is severed into multiple parcels or lots or if there is a conveyance of part of the Site (all referred to as severed parcels) prior to the first full year of reassessment resulting from the completion of the development, the municipal property taxes used to calculate the Grant shall be the sum of the amount which is the lesser of the post-development municipal property taxes or the municipal property taxes payable for the year for which a Grant payment is being made, for all the severed parcels but for the initial Grant payment means the amount which equals the sum of the post-development municipal property taxes for the severed parcels.

A Grant will not be made unless a written request for the Grant payment has been made by the Applicant in the year in which the Grant becomes payable. If a written request has not be made

for Grant payment in the year in which it is payable, but all other conditions for its payment have been satisfied, the Grant payment shall accrue and be payable together with any other Grant payments for which a written request has not been made until such time as a written request has been made and upon such written request the Grant payment shall equal the sum of the accrued and previously unrequested Grant payments. If a request for the initial Grant payment is not made within three (3) years of the year in which the first-years' Grant is payable the agreement shall terminate and without limiting the generality of the foregoing the City shall not be obligated to make any Grant payments.

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 by City Council shall be subject to any changes to the terms of this Program which are 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.