City of Hamilton's
Heritage Revitalization Loan

Program Description

The Heritage Revitalization Loan Program (the Program) is intended to provide financial assistance in the form of a Loan to assist in conserving, developing, and re-using heritage properties. This Program will apply City-wide for those properties designated under Part IV or Part IV of the *Ontario Heritage Act*. The financial assistance provided under this Program is in the form of a 10-year interest-free Loan to a maximum of $100,000 for Eligible Work.

Program Administration

1. Economic Development Division staff will review Applications for eligibility in collaboration with the Planning Division's Cultural Heritage staff and any other relevant City departments as required with approval of Applications subject to the delegated Approval Authority by City Council.

   For the purposes of this Program, "Approval Authority" shall mean the delegated authority given by City Council to the following staff for approvals under this Program:

   a) The General Manager of the Planning and Economic Development Department (hereinafter referred to as the "General Manager") or their delegate may approve Loans under the Program up to a maximum of $100,000, at their absolute discretion;

   b) The Director of the Economic Development Division of the Planning and Economic Development Department (hereinafter referred to as the "Director") or their delegate may approve Loans under the Program from $50,000 up to $99,999, at their absolute discretion; and,

   c) The Manager of Commercial Districts and Small Business Section of the Planning and Economic Development Department (hereinafter referred to as the "Manager") or their delegate may approve Loans under the Program up to $49,999, at their absolute discretion.

2. Applicants and properties will be the subject of due diligence undertaken by the City prior to any approval being provided or payment of a Loan under this Program. This will include, but may not be limited to, confirmation of the following: all property taxes are paid and current on the subject property(s) or other properties owned by the applicant within the City of Hamilton, prior to the

conditional Loan approval and at the time of the Loan issuance, any required Heritage Permit approvals under the *Ontario Heritage Act* must be approved, the property is in compliance with Zoning By-law regulations, that there are no outstanding Property Standards, Building Code or Fire Code Orders on the subject property(s) 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 Loan under this Program.

3. 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 are met.

4. Applications to this Program not yet approved by the General Manager shall be subject to any changes to the terms of this Program which are approved by Council prior to the Application being approved.

5. 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.

Submission Requirements

6. Prospective Applicants shall consult with Cultural Heritage staff as early as possible in the process of planning a project and seeking financial assistance for Eligible Work. This pre-consultation will assist in determining eligibility, help avoid delays in processing an Application and to determine if a Heritage Permit is required.

7. Prospective Applicants should also discuss their proposal for Eligible Work with representatives from the Building Division and the Planning Division to determine if there are regulations that require additional permits or approvals.

8. Property owners registered on title are eligible to apply for a Loan under the Program.

9. Applicants to the Program shall submit a complete Program Application for Eligible Work to the Economic Development Division prior to commencing the proposed Eligible Work. Exceptions may be made at the discretion of the General Manager.

10. An application fee is payable upon submission of the Application. An Application will not be accepted unless accompanied by the application fee. 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.

11. Approval of an Application under this Program is at the absolute discretion of the General Manager for a Loan of up to a maximum $100,000 per property for Eligible Work. The City reserves the right to decide what is considered the total construction cost under the terms of the Program at the sole discretion of the General Manager.

12. Each Application for a Loan for Eligible Work shall be supported by two (2) independent estimates for the Eligible Work (including labour and materials proposed), plans and other details as may be required to satisfy the City as to the cost of the Eligible Work, including the following:

    a) A Heritage Permit application form and/or a Heritage Permit approval letter;

    b) Photographs of the project site and of the features showing what and where the work will take place;

    c) Copies of any relevant historical documentation, including historical photographs or illustrations;

    d) Drawings, specifications, or descriptions (as necessary) that adequately illustrate the scope, type of work and location as proposed. Depending on the scope of the work, drawings prepared by the property owner may be acceptable. However, should an architect or consultant be retained, detailed drawings are required;

    e) A brief summary of the overall project budget, with eligible conservation work clearly itemized;

    f) At least two (2) competitive cost estimates for all labour and materials involved in the proposed Eligible Work unless there is only one local specialized supplier of a particular product, trade, or service. Although it is not mandatory, applicants are encouraged to select suppliers, contractors and/or trades people with demonstrated experience with heritage properties. Please note a contractor licensed with the City of Hamilton may be required to undertake the works; and,

    g) A statement detailing other grants, loans or funding sought for the proposed work, where applicable.

    Please note a contractor licensed with the City of Hamilton may be required to undertake the work. For more information on work that requires a licensed contractor please refer to the Application Form or contact the Building Division at (905) 546-2424 Ext. 2720.

In the case where the Applicant is the owner of a contracting company and wishes to utilize their company to undertake the improvements, one cost estimate from an arms-length contractor will also be required. The owner may present an estimate based on material only.

13. Loans for Eligible Work will be calculated based upon the lowest cost estimate however the Applicant will not be required to use the lowest quoted consultant. A single quote may be accepted in extenuating circumstances at the discretion of the Manager.

Eligible Work

Eligible Work

14. Eligible Work includes any work that conserves, restores and/or enhances elements identified and described in the applicable heritage designation by-law, Heritage Conservation District Plan and/or Heritage Conservation Easement Agreement or Covenant.

15. All Eligible Work must be executed in such a manner as to not detract from or diminish the cultural heritage value of the property or Heritage Conservation District and shall comply with any required Heritage Permits under the *Ontario Heritage Act,* determined at the discretion of Cultural Heritage staff.

16. All Eligible Work should conform to relevant municipal heritage policy, such as the City's Masonry Restoration Guidelines, Heritage Window Guidelines and Heritage Conservation District Plan guidelines, as well as best practices for heritage conservation, including Eight Guiding Principles in the Conservation of Built Heritage Properties (Ministry of Culture, 2007) and the Standards and Guidelines for the Conservation of Historic Places in Canada (Parks Canada, Second Edition, 2010), as may be updated by the Provincial and Federal governments from time to time determined at the discretion of Cultural Heritage staff.

17. The types of Eligible Work include:

    a) Structural / Stability Work

    i. Work necessary to restore the building to structural soundness (e.g., the correction of serious structural faults that threaten the building's survival; stabilization works to retain portions of the property; underpinning of building structures; repair / new roofs etc.).

    b) Conservation Work

    i. Any work that conserves or enhances elements specified in the Reasons for Designation, the Statement of Cultural Heritage Value of Interest or, a Description of the Heritage Attributes included in the property's designation by-law or applicable Heritage Conservation District Plan under the *Ontario Heritage Act* including the following:

1. The **conservation** of significant architectural features. This may include the conservation or restoration of doors, windows, verandahs, cupolas, chimneys, bargeboard or other decorative trim, parapets, cornices, hood mouldings and any other features important to the overall composition of the structure as specified in the Reasons for Designation, the Statement of Cultural Heritage Value of Interest or, a Description of the Heritage Attributes included in the property's designation by-law or applicable Heritage Conservation District Plan under the *Ontario Heritage Act*.

2. The **conservation** of fences and outbuildings, if specifically referred to in Reasons for Designation, the Statement of Cultural Heritage Value of Interest or, a Description of the Heritage Attributes included in the property's designation by-law or applicable Heritage Conservation District Plan under the *Ontario Heritage Act*.

3. The **conservation** or renewal of original siding and roofing materials including repair and replacement where necessary of wood clapboard or board-and-batten, repair and repointing of masonry buildings, historic stucco repair, repair, or replacement of original roofing materials (slate, wood shingles, tile, etc.). The removal of a modern cladding material (e.g., synthetic siding, asphalt shingles, etc.) and replacement with documented original materials is also eligible.

4. The **reconstruction** of former and significant architectural features for which the appearance can be clearly determined from documentary sources (photographs, drawings, etc.).

5. The **installation** of historically appropriate wood storm windows and wood storm and screen doors.

6. The **reconstruction** of historic store fronts which have been altered or replaced. The documentation should be in the form of historic photographs or drawings clearly showing the feature(s) to be reconstructed.

7. Cleaning of masonry buildings may be eligible if it is necessary for the building's conservation.

8. Exterior painting in documented original colours. Colours must be documented for the individual building or be proved to have been a common contemporary colour in the area.

c) Any other works deemed by the City that support the conservation of the designated heritage property at the sole and unfettered discretion of the General Manager.

Ineligible Work

18. Ineligible Work includes any work or projects of a non-heritage nature, works that focus on non-heritage attributes, new additions, spaces, features and finishes, new construction, any works that may diminish the cultural heritage value of the property, or any work that is contrary to an approved Heritage Permit, at the sole and unfettered discretion of the General Manager.

Terms of the Program

19. The Loan is contingent on the property being designated under Parts IV or V of the *Ontario Heritage Act*.

20. This Program applies City-wide.

21. A successful Applicant will enter into a Loan Agreement with the City containing the terms and conditions set out in this Program description and such additional terms and conditions as determined by the General Manager in their sole discretion.

22. The maximum Loan amount is calculated based on 100% of total Eligible Work to a maximum of $100,000 per property. The City reserves the right to decide what is considered the total construction cost under the terms of the Program at the sole discretion of the General Manager.

23. Applications and approvals under this Program shall be provided on a first come first serve basis, subject to the availability of funding.

24. Approval and the receiving of a Loan under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the property under any other available municipal program. However, where Eligible Work is the subject of this Program and any other program, the total financial assistance for the Eligible Work across all applicable programs shall not exceed the sum total cost of the Eligible Work.

25. The maximum Loan term is ten years (subject to prior termination on default) commencing from the date of the last advance. No extension or renewal shall be

granted except in the sole and unfettered discretion of the General Manager.

26. The interest rate for the Loan will be at 0% interest for the term of the Loan.

27. The Loan will be secured through a Loan Agreement, and a collateral mortgage registered on title upon the property in a position no less than second in priority prior to the advance of funds. The General Manager, in their sole discretion, may require additional or alternative security in the form of a promissory note; and / or personal property security; and / or personal guarantees; and / or corporate guarantees; and / or lien on the property to be improved; and / or letter of credit in lieu of a second mortgage charge on the property (subject to City's minimum equity requirements); and / or such other security which may be appropriate or available in the circumstance. In all circumstances a Loan Agreement shall be required.

28. Applicants shall be required to submit information to assist with determining the financial capabilities of the Applicant to complete the Eligible Work subject to the Program Application and to identify any potential financial risks to the City. Information required to be submitted may include but may not be limited to a financial risk assessment, personal/corporate net worth statements and / or business plan at the sole and unfettered discretion of the General Manager.

29. The Applicant must meet or exceed a Debt Service Ratio of 1.20x for non-residential space or 1.10x for standard rental housing. Total Debt Service and Gross Debt Service of loans must not exceed 44% and 39%, respectively for owner-occupied residential properties. The Applicant(s) (or guarantor(s)) must have a minimum credit score of 600. The General Manager may waive any of these requirements at their sole and unfettered discretion.

30. Interest on arrears will be charged per annum at the then prevailing rate established by Council.

31. Applicants shall have no less than 25% equity based upon the as-complete appraised value of the property as supported by an appraisal prepared by a certified appraisal profession. Where an appraisal is not available, documentation used for insurance purposes (i.e., cost of replacement value) can be used to establish the equity requirement at the sole and unfettered discretion of the General Manager. All mortgages registered on title, including collateral mortgages and non-registered debt, as determined by the City, will be included in the equity calculation.

32. Advances are made by the City upon proof being provided that is satisfactory to the General Manager confirming the value of the work completed, the equity requirement has been satisfied, there are no tax arrears on the subject property and/or on other properties owned by the Applicant within the City of Hamilton and such other conditions as may be required by the General Manager.

33. The City's funding will be completed over two Loan advances: the first advance upon completion of 50% of the Eligible Work and upon proof of paid invoices for the Eligible Work invoiced to complete 50% of the Eligible Work and the final advance on proof to the satisfaction of the General Manager confirming the completion of the Eligible Work.

34. Upon proof satisfactory to the General Manager that the Eligible Work is 50% complete based upon the value of the construction, a site visit by a City's Building Inspector to conduct a progress inspection of the work to date, and that equity and / or financing required to that stage of completion has been injected into project, then the required funds of the Loan will be made available and released as per the Loan Agreement.

35. The deadline for 50% completion of the proposed Eligible Work will be subject to a date as established through consultation with the Applicant and approved by the General Manager. Where this date is not met, the Loan Agreement will be terminated. This date may be extended at the sole and unfettered discretion of the General Manager.

36. The City may retain a holdback, including but not limited to the basic holdback, finishing holdback, and notice holdbacks as provided for under the Construction Act as the City deems prudent. Where a holdback is retained by the City, at the sole, absolute and unfettered discretion of the General Manager, a confirmation of publication of the Certification of Substantial Performance will be required. Where the requirement for confirmation of publication of the Certification of Substantial Performance has been waived by the General Manager, the Contractors must supply a Declaration of Last Supply. The Holdback will be released 60 days following the Declaration of Last Supply from the Contractors and following receipt of a written report to the City satisfactory to the General Manager that will include but not be limited to an updated statement of project cost, confirmation that all of the Units of the Project can be occupied, receipt of statutory declaration(s) in a form satisfactory to the General Manager and sworn to by the Contractor(s) that states: "All accounts for labour, contractors, subcontracts, products, services, machinery and equipment which have been incurred in the Project, have been paid in full" and there are no notices of liens and lien rights have expired.

37. Principal repayment of the Loan shall be repayable in monthly Loan payments. Payments will commence one year following the completion of construction.

38. The Loan may be prepaid at any time without notice, bonus, or penalty. Discharge and registration fees (plus applicable taxes) will be required to be paid at such time as the prepayment occurs.

39. Eligible Work shall commence no longer than one year following the date the

Loan is conditionally approved under the delegated Approval Authority or the Loan will be terminated. Eligible Work shall be completed within three (3) years following the date the Loan is approved under the delegated Approval Authority, or the Loan secured by the mortgage to the City shall forthwith become due and payable. The three-year period may be extended by the General Manager at their sole and unfettered discretion.

40. All property taxes as billed must be paid current and in good standing throughout the construction stage as well as during the term of the Loan for any portion of the development retained by the Applicant upon completion of the Eligible Work.

41. The City will require specific insurance terms at the sole and unfettered discretion of the General Manager to be met to protect the City's interest.

42. Where an Application is in respect to a designated property containing multiple registered owners as a result of the building(s) thereon being a condominium or co-operative, the Application shall be submitted by the condominium corporation or co-operative corporation and shall be accompanied by:

    a) A by-law of the condominium corporation or the co-operation authorizing the borrowing of money for the purposes of completing the Eligible Work described in the Application;

    b) A by-law of the condominium corporation or co-operative corporation permitting the board to approve the undertaking of the Eligible Work described in the Application; and,

    c) Proof satisfactory to the General Manager that the board of the condominium corporation or the co-operative corporation, whichever is applicable, has approved the Eligible Work described in the Application, and has approved the Application.

43. Prior to any Loan being paid, any outstanding Building Code, Fire Code or Property Standards Orders, lien(s) on title, heritage permit(s), or any other order applicable to the property(s) or the project by any governmental authority shall be rectified.

44. A Loan is conditional upon a Heritage Permit or easement approval, or other City approval, being issued for the heritage component of the Eligible Work, and conditional upon all *Planning Act* approvals, *Ontario Heritage Act*, and *Building Code Act* approvals being issued, where required.

45. The final advance of the Loan will be advanced upon also providing proof, by an architect or engineer, demonstrating experience with heritage conservation work, confirming the value of the work completed and the compliance with all applicable regulations / legislation or, upon proof satisfactory to the General

Manager confirming the value of the work completed. A final inspection report, prepared by a City Building Inspector, shall confirm that all the proposed Eligible Work has been carried out satisfactorily prior to the City releasing any Loan funds.

46. The Eligible Work completed must conform to the approved work proposed in the estimates identified within the Application unless a modification is otherwise approved by the General Manager.

47. Property taxes must be paid current and in good standing at the time of approval of the Loan Application and during the term of the Loan Agreement. The advance of the Loan will not be made if property taxes are not paid current and in good standing.

48. Notwithstanding the above, upon completion of Eligible Work on condominium properties, the Commercial Districts and Small Business Section will set a deadline to the condominium corporation as to when all taxes on the property are to have been paid as billed and, if on that date 100% of the taxes are not paid, the Loan will be advanced proportionately based upon the percentage of paid taxes. The remainder of the Loan will be cancelled.

49. A Loan under this Program will be advanced to an approved Applicant if all terms and conditions of this Program have been complied with to the satisfaction of the General Manager in their sole discretion, including the payment of all property taxes, any outstanding Heritage Permit issues having been rectified, all outstanding Building Code, Fire Code or Property Standards Orders or any other order applicable to the property(s) or the project by any governmental authority having been rectified, and completion of all Eligible Work and compliance with all terms of the Loan Agreement.

50. Eligible Work that was conditionally approved but found to be completed in a manner contrary to the conditions of the Loan approval or the Heritage Permit, will not be funded.

51. The Loan is only advanced to the Applicant of the approved Loan who must be the property owner at the time of advance.

52. Applications under this Program are subject to approval at the absolute discretion of the General Manager subject to the availability of funds.

53. Without limiting the discretion as set out in paragraph 52 herein, the General Manager, 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 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.

54. Without limiting the discretion as set out in paragraph 52 herein, the General Manager, 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 property tax arrears owed on the subject property(s) or other properties owned by the applicant within the City of Hamilton, non- compliance with respect to the Heritage Permit, Zoning By-law regulations or there exist outstanding Property Standards, Building Code or Fire Code Orders on the subject property(s).

55. Without limiting the discretion as set out in paragraph 52 herein, the General Manager, whether or not an applicant satisfies the requirements of the Program, may in its sole discretion, reject any application where the City determines in its sole discretion that there is a financial risk to the City in terms of the financial capabilities of the Applicant to complete the improvement / development subject to the Program Application.

56. Without limiting the discretion as set out in paragraph 52, herein, the General Manager, 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 honestly and integrity in undertaking the activity, operation or business for which a loan under this Program is being sought. For corporate Applicants, the applicant, for the purposes of this paragraph 56, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 56 shall apply jointly and severally to each of them.

57. Work commenced prior to submitting an Application is ineligible for funding under this Program. Work commenced after submitting an Application, but prior to approval, may be eligible for funding under the Program with eligibility determined by the General Manager in their sole, absolute, and unfettered discretion. 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.

58. Buildings uses and improvements / developments shall conform to the Heritage Permits issued under the *Ontario Heritage Act*, 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 improvement/ development.

59. All costs associated with the improvements / development and the requirements of this Program are to be borne by the Applicant including construction, design, development charges, application fees, appraisals, inspections, legal, discharge and registration fees (plus applicable taxes), where applicable.

60. The General Manager retains the right to assess the reasonableness of costs and which costs are eligible for funding under the terms of the Program.

61. A Program application may be denied by the General Manager if the improvement / development is not supported by 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 General Manager’s decision on the Program application will not fetter its discretion on *Planning Act* applications.