

DOWNTOWN HAMILTON OFFICE CONVERSION GRANT PROGRAM



The Downtown Hamilton Office Conversion Grant 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 Downtown 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. Program Overview/Description

1. For the purposes of this Program:

- a. **"Approval Authority"** means the approver or denier of a Program application for a Grant;
- b. **"Costs to Construct Eligible Units"** means the reasonable and necessary costs incurred for the construction and conversion of Eligible Units, including hard construction costs and eligible soft costs such as architectural, engineering, project manager services, but excluding municipal fees, financing costs, land costs, and any other costs not directly attributable to the construction of the Eligible Units, as determined by the Director;
- c. **"Director"** mean the City's Director of the Economic Development Division;
- d. **"Dwelling Unit"** has the meaning ascribed to it in City of Hamilton Zoning By-law 05-200;
- e. **"Dwelling Unit, Mixed Use"** has the meaning ascribed to it in City of Hamilton Zoning By-law 05-200;
- f. **"Educational Establishment"** means 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;

- g. **“Eligible Unit”** shall mean a Residential Dwelling Unit or a Hotel room that meets all of the following criteria:
 - i. it is 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 By-law;
 - ii. it is constructed in an Existing Office Building; and
 - iii. it is located above the ground floor of the Existing Office Building and occupies space that, prior to the Program application, had a last confirmed use of Office under Hamilton Zoning By-law 05-200, as determined to the satisfaction of the Director;
- h. **“Existing Office Building”** means a building, or portion of a building, that, immediately prior to the proposed conversion, was used and permitted to be used as an Office;
- i. **“General Manager”** means the City’s General Manager of Planning and Economic Development Department;
- j. **“Grant”** means a grant under the Program;
- k. **“Hotel Room”** means 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” as defined in City of Hamilton Zoning By-law 05-200;
- l. **“Manager”** means the City’s Manager of Commercial Districts and Small Business;
- m. **“Office”** has the meaning ascribed to it in City of Hamilton Zoning By-law 05-200;
- n. **“Owner”** means the registered owner of the Site;
- o. **“Program”** means Downtown Hamilton Office Conversion Grant Program;
- p. **“Project Monitor”** means an architect, engineer or quantity cost surveyor acceptable to the Director in their sole, absolute and unfettered discretion

- q. **“Residential Dwelling Unit”** means a Dwelling Unit or Dwelling Unit, Mixed Use;
 - r. **“RHCD CIP”** means the City of Hamilton’s Revitalizing Hamilton’s Commercial Districts Community Improvement Plan;
 - s. **“RHCD CIPA”** means the City of Hamilton’s Revitalizing Hamilton’s Commercial Districts Community Improvement Project Area;
 - t. **“Site”** shall mean all properties/parcels of land associated with the building subject to an application under this Program; and
 - u. **“Tenant”** means a person or entity that:
 - i. leases at least 5,000 square feet of Office space within an Existing Office Building located on the Site;
 - ii. holds a lease term of not less than 99 years for that Office space; and,
 - iii. whose leased Office space is being converted to a minimum of 10 new Eligible Units.
2. This Program applies to properties located within Sub Area 1: Central Business District of the Downtown Hamilton Community Improvement Project Area as defined through the RHCD CIPA By-law.
 3. An Applicant to this Program must be either the Owner of the building being converted to accommodate Eligible Units, or a Tenant who has obtained the Owner’s written consent on the Program application.
 4. A maximum of two applications are permitted per Site under this Program of which:
 - a. 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
 - b. no more than one application for funding supporting the construction of Eligible Units.
 5. 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:

- a. 50% of the total cost of the feasibility studies to a maximum of \$20,000; or
 - b. available funding under this Program.
6. The maximum Grant that can be provided per Site under this Program for construction of Eligible Units on a Site is the lesser of:
- a. the amount calculated by applying the per unit rates set out in Table 1 to no more than 100 Eligible Units;
 - b. the actual Costs to Construct Eligible Units that are the subject of the Program application; or
 - c. 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 Eligible Unit

* 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.

B. Program Eligibility and Criteria

7. Applications to this Program must meet the goals of the RHCD CIP.
8. 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.
9. A complete Program application shall be submitted to the Economic Development Division prior to:

- a. The commencing of work on an eligible feasibility study for Program applications respecting the funding for feasibility studies required by the City through a Site Plan application; and,
 - b. The issuance of Building Permit for Program applications respecting the construction of Eligible Units.
10. A minimum of 5,000 square feet of an Existing Office Building Office space must be converted to Eligible Unit(s) and 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, Table 1 herein.
11. Grants are only payable to the Applicant for an approved application 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.
12. Applications and approvals under this Program shall be processed on a first-come, first-served basis, subject to the availability of funding. Prior to any application approval being provided:
 - a. Building use, development and/or work to create the Eligible Units on the subject Site shall conform to:
 - i. City's Official Plan(s), applicable Secondary Plan(s), Zoning By-Laws(s), Site Plan approval;
 - ii. the Building Code Ontario Regulation 332/12 as amended or replaced;
 - iii. the Fire Code Ontario Regulation 213/07 as amended or replaced;
 - iv. property standards orders;
 - v. all applicable law, municipal policies, by-laws and guidelines (e.g. urban design guidelines), and any other order or directive by any judicial, governmental or regulatory authority;
 - b. Any tax arrears in respect of the Site shall be paid;
 - c. The Applicant shall be in good standing in respect to all other agreements entered into with the City, and is in good standing in respect of any other amounts owed to the City; and,
 - d. Such additional requirements as may be determined and required by the Approval Authority of the Grant.
13. Notwithstanding Section B, Paragraph 12, where prioritization is required due to demand for the Program or limitations in available funding, the City may give priority to conversion proposals containing the greatest number of Eligible Units and/or those proposing the greatest number of units with two (2) or more bedrooms, and

may decline or defer earlier-submitted Program applications that do not meet these priorities.

Eligible Unit Construction Grant Specific Requirements

14. For Grants respecting the construction of Eligible Units, the following shall apply:

- a. 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 Cost Confirmation Report accepted at the sole discretion of the Director. Note that eligible construction costs 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 Director in their sole discretion;
- b. No decision will be made on a Program application until a building permit application for the Eligible Units has been submitted to the City's Building Division;
- c. Eligible Units shall be constructed and be capable of occupancy within two (2) years of the date of application approval by the Approval Authority;
- d. 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 Approval Authority;
- e. Applications must be submitted prior to the issuance of a Building Permit for the construction of Eligible Units subject to the Program application. Applications submitted after a Building Permit has been issued will not be accepted. 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;
- f. A Project Monitor may be required, unless waived at the sole, absolute and unfettered discretion of the Director. Where a Project Monitor is required, the Applicant shall retain, at the Applicant's expense, a Project Monitor acceptable to the Director. The Project Monitor shall provide, to the satisfaction of the Director, confirmation that the structural, mechanical and electrical work has been

completed and complies with the approved plans and specifications and all applicable law; and,

- g. 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 Building Division at the discretion of the Director 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 Director; 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.

The Grant payable shall be based on the actual Cost to Construct Eligible Units, as confirmed in the cost to construction report and shall not exceed the maximum Grant amount per Section A, Paragraph 6 herein.

15. 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. The Applicant is receiving, or will receive, a grant from any other municipal, provincial, or federal program for the construction or conversion of the same Eligible Units, and the total value of all such assistance would exceed the cost to construct the Eligible Units;
 - b. The Grant, when combined with any other grant received for the same Eligible Units, would result in total assistance exceeding the cost to construct the Eligible Units;
 - c. The Applicant is receiving, or will receive, assistance for the Eligible Units under any municipal tax increment grant or tax cancellation-based program; or,
 - d. The Applicant is receiving, or will receive, assistance for the Eligible Units under 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.

16. In such cases, where any other grant received for the same Eligible Units results in total assistance exceeding the Cost to Construction Eligible Units, the Grant may be reduced so that the total assistance does not exceed the cost to construct the Eligible Units.
17. For Grants respecting the construction of Eligible Units, when a Site is sold after a Program application is approved under this Program, but before the requirements of Section B, Paragraph 14. a. herein have been met, the Program application and approval are cancelled, and no Grant shall be payable.
18. For Grants respecting the construction of Eligible Units when a Site is sold after a Program application has been approved, the Grant will continue to be paid to the approved Applicant if the following conditions are met: the requirements of Section B, Paragraph 14. a. have been satisfied; the approved Applicant incurred the cost to construct the Eligible Units; and all other applicable terms contained herein are satisfied to the satisfaction of the General Manager.

Feasibility Study Grant Specific Requirements

19. For Grants respecting feasibility studies required by the City as part of a Site Plan application, the following 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 by the Applicant;
 - d. Completed feasibility studies will be reviewed and approved by the 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 Manager may reduce or cancel the Grant 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 Manager, 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 by the

Applicant; and

- f. The City reserves the right to audit the cost of the feasibility study prior to advancing the Grant.
20. For Grants respecting feasibility studies, when a Site is sold after a Program application is approved under this Program, but before the feasibility study is completed and invoices have been submitted in accordance with the requirements of Section B, Paragraph 19 d. and e. herein, the Program application and approval are cancelled, and no Grant shall be payable.
21. For Grants respecting feasibility studies, when a Site is sold after a Program application is approved under this Program and after the City has determined the requirements of Section B, Paragraph 19 d. and e. herein have been met, the Grant will continue to be paid to the approved Applicant, provided that all other applicable terms contained herein are satisfied at the discretion of the City.
22. In such cases where any other grant received for the same feasibility study results in total assistance exceeding the cost of the feasibility study, the Grant may be reduced so that the total assistance does not exceed the cost of the feasibility study.

C. Approval Authority

23. Applications under this Program are subject to the availability of funds, and the approval or denial by the person identified in the approval authority by-law applicable to the Program (the "Approval Authority").
24. Without limiting the discretion as set out in Section C, Paragraph 23 herein, the Approval Authority, 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 Approval Authority, 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 to, the following, jointly and severally:

- a. the Applicant identified on the application form;
- b. if the Applicant 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 Approval Authority in their sole, absolute, and unfettered discretion;
- c. if the Applicant is a partnership or limited partnership, any partner or limited

partner ,and if any such partner or limited partner is a corporation, any person or entity with an interest in the corporation, any shareholder of that corporation, or any officer or director of that corporation, as determined by the Approval Authority in their sole, absolute, and unfettered discretion.

25. Without limiting the discretion as set out in Section C, Paragraph 23 herein, the Approval Authority, 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, 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.
26. Without limiting the discretion as set out in Section C, Paragraph 23 herein, the Approval Authority, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application where the Approval Authority 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.
27. Without limiting the discretion as set out in Section C, Paragraph 23 herein, the Approval Authority, 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 Section C, Paragraph 27, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this Section C, Paragraph 27 shall apply jointly and severally to each of them.
28. A Program application may be denied by the Approval Authority 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.
29. 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.
30. Approval of a Program application by the Approval Authority 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 the Approval Authority's decision on the application will not fetter City Council's 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 the Approval Authority's approval/direction of the Program application.

D. Program Administration

31. 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 the Manager has deemed the application complete in their sole discretion.
32. An application fee is payable upon submission of a Program application and forms part of a complete Program 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.
33. 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 staff as required. Acceptance of the application by the City in no way implies Program application approval.
34. The Site and Applicant will be the subject of due diligence undertaken by the City prior to any recommendation on the application being submitted to the Approval Authority for its 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 or, if the application has been approved, non-payment of a Grant under this Program.
35. If Program application is approved, the Applicant will be provided an approval letter that outlines the terms and conditions of the Grant. If a Program application is denied, the Applicant will be notified in writing with rationale for the decision.

36. Where a Program application has been submitted but not yet approved by the Approval Authority 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 General Manager. 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 General Manager 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 General Manager prior to assignment being considered by the General Manager.
37. The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the Approval Authority to ensure the goals and purpose of this Program and the RHCD CIP are met.
38. 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 Program application being approved.
39. The Economic Development Division will periodically review the terms and availability of this Program and as a result the Program may be updated from time-to-time.
40. Where this Program refers to a City staff title, such reference shall be deemed to include any new, amended, replaced, substituted or successor title assigned to the position from time to time.
41. City Council may discontinue this Program at any time. However, Applicants with approved Program applications will still continue to receive the Grant subject to meeting the Program terms contained herein
42. 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.