TO: Chair and Members
   Economic Development and Planning Committee
WARD(S) AFFECTED: WARDS 1, 2, 3, 4, 6, 7, 9, 12, 13, 15

COMMITTEE DATE: September 7, 2010

SUBJECT/REPORT NO: Amendments to the Downtown and Community Renewal Community Improvement Plan and Related Measures (PED10199) (Wards 1, 2, 3, 4, 6, 7, 9, 12, 13, 15)

SUBMITTED BY: Tim McCabe
   General Manager
   Planning and Economic Development Department

PREPARED BY: Hazel Milsome 905-546-2424 ext 2755

SIGNATURE:

RECOMMENDATION:

(a) That the Downtown and Community Renewal Community Improvement Plan be amended as set out in Report PED10199 and that the by-law attached to Report PED10199 as Appendix “A” be enacted;

(b) That the terms of the new Hamilton Heritage Property Grant Program as described in Appendix “A” above be approved;

(c) That amendments to the Hamilton Downtown Property Improvement Grant Program as described in Appendix ‘B’ to Report PED10199 be approved;

(d) That subject to the approval of (a) above, the amendment to By-law 10-052 as amended, which delegates authority of certain loans and grants to the General Manager, Planning and Economic Development attached as Appendix ‘C’ to Report PED10199 be approved.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
EXECUTIVE SUMMARY

In order to deliver financial incentive programs that are effective and meet the strategic direction of City Council, amendments to existing programs and the delivery of new programs are required. The purpose of Report PED10199 is to:

- Introduce the Hamilton Heritage Property Grant Program to the Downtown and Community Renewal Community Improvement Plan to allow the City of Hamilton to offer grants for heritage preservation to any person that a property owner has assigned the right to a grant including a condominium corporation.
- Amend the terms of the Hamilton Downtown Property Improvement Grant Program in order to clarify the terms of the program when an applicant chooses not to assign the grant to first purchasers of condominium units.
- Amend the delegating authority by-law to allow the General Manager, Planning and Economic Development, to approve grants under the Hamilton Heritage Property Grant Program through the Planning Act.

Alternatives for Consideration – See Page 6.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Funding for the Hamilton Heritage Property Grant Program is contained in the Main Street Program Reserve (102048) and Capital Project ID# 8200803803; 8200903803; and, 8201003803. Payments from the Reserve account will flow through Dept. ID 58201-815025. These accounts were established to fund the existing Hamilton Heritage Property Grant Program that is offered to registered property owners of historically designated properties. $1,079,663 remains in the accounts as of the writing of this report.

Hamilton Downtown Property Improvement Grant Program: the City collects property taxes on properties under the Hamilton Downtown Property Improvement Grant Program and, in turn, provides a grant for five (5) years declining each year after the first (1st) year by 20% due to the redevelopment/development of the property. Commencing in year two (2) of the grant payment, the City starts to realize the positive results of the Program from a financial perspective.

Staffing: Administration of the financial incentive programs can be accommodated within the existing staff complement of the Downtown and Community Renewal Division of the Planning and Economic Development Department as well as the Corporate Services Department.
Legal: Section 28 of the Planning Act permits a municipality, in accordance with a Community Improvement plan to make loans and grants which would otherwise be prohibited under Section 106(2) of the Municipal Act, to registered/assessed owners and tenants of lands and buildings. A Community Improvement Plan can only be adopted and come into effect within a designated Community Improvement Project Area. Changes to a Community Improvement Plan or Community Improvement Project Area require formal amendments as dictated by the Planning Act.

Provincial legislation allows a municipality to delegate its powers to a person or body through a municipal by-law authorizing the delegation. Specifically, Sections 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25 in accordance with section 23.1 of the Municipal Act, 2001, states the powers of a municipality under that or any other Act may be delegated to a person or body subject to the restrictions set in sections 23.2 to 23.5, inclusive of the Municipal Act, 2001. City Council, at its meeting held March 20, 2010, approved Delegating Authority By-law 10-052 that delegates authority to the General Manager, Planning and Economic Development to approve grants and loans for certain financial incentive programs.

HISTORICAL BACKGROUND (Chronology of events)

City Council at its meeting held August 12, 2010 directed staff to advertise for a public meeting regarding the proposed amendment to the Downtown and Community Renewal Community Improvement Plan for the purpose of introducing a heritage grant program that would be available to eligible condominium corporations for the restoration/conservation/stabilization of designated properties within the Downtown Core and active Business Improvement Areas.

The Downtown and Community Renewal Community Improvement Plan serves as a broad guide to assist in the regeneration of Downtowns, Business Improvement Areas and traditional retail streets providing the legal basis for various municipal financial incentives. The Plan is governed by the Planning Act that permits a municipality to loan or grant monies to any person whom an owner has assigned the right to receive a loan or grant including a condominium corporation where lands are within a Community Improvement Project Area duly approved by Council.

Amendment to the Downtown and Community Renewal Community Improvement Plan:

The amendment to the Community Improvement Plan will make the Hamilton Heritage Property Grant Program available to any person whom an owner has assigned the right to receive a loan or grant, including a condominium corporation, for alterations to designated properties. The program will provide financial assistance in the form of a grant based on 25% of total cost of the regeneration of the property, to a maximum
grant of $150,000.00 for eligible work. The program will be offered for: structural/stability work required to conserve and restore heritage features of properties; and, the conservation and restoration of heritage features of properties that are designated under Parts IV or V of the Ontario Heritage Act. Eligible properties must be located within the Downtown Hamilton Community Improvement Project Area or an active Business Improvement Area. The Program will also offer an additional $20,000 grant for heritage-related reports/assessments/studies.

The City of Hamilton created the Hamilton Heritage Property Grant Program in December 2007 and it was staff’s intention that the program be available to condominium corporations when initially creating the Program under the Ontario Heritage Act. However, Sub-Section 39 (1) of the Ontario Heritage Act states that a council of a municipality may pass by-laws providing for the making of a grant or loan to the owner of a property designated under the Act for the purpose of paying for the whole or any part of the cost of alteration of such designated property on such terms and conditions as the Council may prescribe. Under the Ontario Heritage Act, an owner is defined as the registered owner of the property and does not include condominium corporations. By-law 07-346 passed and enacted by City Council at its meeting held December 7, 2007 authorizes the City to loan or grant monies to owners of properties designated under the Ontario Heritage Act.

The initiative to amend the Downtown and Community Renewal Community Improvement Plan for the purpose of introducing a financial incentive for the restoration/conservation of historically designated properties that would be available to any person whom an owner has assigned the right to receive a grant or loan, including a condominium corporation, recognizes that heritage properties are valuable to the urban revitalization and regeneration of our community.

Amendment to the Hamilton Downtown Property Improvement Grant Program:

The Hamilton Downtown Property Improvement Grant Program was established for the purpose of providing an incentive that would generate investment in the rehabilitation of older buildings and the development of vacant properties within the Downtown. The program provides a grant based on the increase in the municipal portion of the taxes due to the development/development of the property. The grant is for a five (5) year period based on 100% of the municipal portion of the increase in taxes in the first year then declining each of the following four (4) years by 20%.

The amendment to the Program addresses the process when an applicant chooses not to assign the grant to the first-purchasers of condominium units. In that scenario, the grant will be earned by the applicant if they have met all terms and conditions of the Program including payment of taxes during the development stage only. The annual grant to the applicant will be pro-rated if an appeal has been filed with the Municipal Property Assessment Corporation by any of the condominium unit owners. The grant

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
for condominium units that are under appeal will not be released until the appeals are settled through the Assessment Review Board.

**Delegated Authority By-law:**
By-law 10-052 as amended, delegates the authority to the General Manager, Planning and Economic Development to approve grants and loans for certain financial incentive programs. The administration of the Hamilton Heritage Property Grant Program under the Community Improvement Plan requires an amendment to the By-law. The amendment to the By-law is attached as Appendix ‘C’ to this Report.

**POLICY IMPLICATIONS**

The Downtown and Community Renewal Community Improvement Plan (CIP) states that “the introduction of new programs and major policy amendments necessitating changes to existing programs shall be made with City Council approval and processed according to the provisions of the Planning Act.” It further states that “the increase in financial assistance to registered owners, assessed owners, and tenants, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, the addition of any new financial incentive programs, or a change to the Community Improvement Project Area will require a formal amendment to this Plan.” The introduction of the Hamilton Heritage Property Grant Program has been put forward on that basis and in accordance with the legal requirements of the Planning Act.

The amendment to the Hamilton Downtown Property Improvement Grant Program has been put forward in accordance with the CIP that states “Council shall adopt by resolution detailed implementation measures to allow for the efficient administration of financial incentive programs”, and that the “City may periodically review and adjust the terms and requirements of any of the financial incentive programs contained in the Plan, or discontinue any of the programs contained in the Plan, without amendment to the Plan.”

Development/redevelopment projects under the Hamilton Heritage Property Grant Program and Downtown Property Improvement Grant Program must be in conformity with the Downtown Hamilton Secondary Plan and applicable zoning by-laws.

**RELEVANT CONSULTATION**

Staff from Legal Services, City Manager’s Office and Corporate Services were consulted on Report PED10199 and concur with its contents.

The Ministry of Municipal Affairs was consulted concerning the amendments to the Community Improvement Plan.
The financial incentive programs referred to in Report PED10199 support City Council's performance measurements as follows:

- **Increase the number of residential units Downtown by 150 per year starting in 2009.** This measure relates specifically to a primary goal of the Division's financial incentive programs. The Hamilton Downtown Property Improvement Grant Program encourages the development of residential units and, designated properties can be retrofitted for residential use.

- **Increase Downtown property taxes (municipal portion) by $1.45M on an average per year.** Another performance measure is the tracking of property assessments and taxes within the Downtown Hamilton Community Improvement Project Area. The Tax Division, Corporate Services Department, has confirmed that annual taxes have increased from $25,086,600 in 2008 to $25,730,600 in 2009. The net levy increase is $644,000 with $242,000 being attributable to assessment increase. Developed/redevelopment projects under the Hamilton Downtown Property Improvement Grant Program and the Hamilton Heritage Property Grant Program have contributed/will contribute to increasing taxes in the Downtown.

Non-acceptance of the recommendations contained in Report PED10199 would result in the City of Hamilton not being able to assist in the rehabilitation and re-use of heritage properties that are governed by condominium corporations or any other person who has been assigned by the owner to receive a loan or grant through the Hamilton Heritage Property Grant Program. Also, applicants under the Hamilton Downtown Property Improvement Grant Program who choose not to assign the grant to first-condominium purchasers would be penalized for tax arrears that they have no control over. This is not a recommended alternative.

**Financial:** Not applicable.

**Staffing:** Not applicable.

**Legal:** Not applicable.
CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Growing Our Economy

• Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases.

Environmental Stewardship

• The financial incentive programs support residential intensification and the reuse of existing building stock and infrastructure.

Healthy Community

• Partnerships are promoted.

APPENDICES / SCHEDULES

Appendix ‘A’ to Report PED10199 is the By-law to adopt Amendment No. 5 to the Downtown and Community Renewal Community Improvement Plan.

Appendix ‘B’ to Report PED10199 is the amended Program Description for the Hamilton Downtown Property Improvement Grant Program.

Appendix ‘C’ to Report PED10199 By-law 10-052 as amended, that delegates authority to the General Manager, Planning and Economic Development for certain grants and loans under the Downtown and Community Renewal Community Improvement Plan.

HM:vk
CITY OF HAMILTON

BY-LAW NO. 10-___

To Adopt:

Amendment No. 5 to the Downtown and Community Renewal Community Improvement Plan

WHEREAS Section 28 of the Planning Act entitled Community Improvement states where a by-law has been passed to designate a community improvement project area, the Council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area;

AND WHEREAS By-law 07-061, as amended, passed on the 28th day of February 2007, designated the Downtown and Community Renewal Community Improvement Project Area;

AND WHEREAS By-law 07-062, as amended, passed on the 28th day of February 2007 adopted and approved the Downtown and Community Renewal Community Improvement Plan;

AND WHEREAS Council, by its Economic Development and Planning Committee, held a public meeting on September 7, 2010 to discuss and receive public input regarding an amendment to the Downtown and Community Renewal Community Improvement Plan, and has taken other steps required to amend the Plan, prior to the enactment of this by-law, as required by the Planning Act.

AND WHEREAS the City has prepared an amendment to the Downtown and Community Renewal Community Improvement Plan, attached hereto as Schedule 1 and forming part of this By-law.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Amendment No. 5 to the Downtown and Community Renewal Community Improvement Plan, consisting of Schedule 1 hereto annexed and forming part of this by-law, is hereby adopted and approved.

2. Schedule ‘A’ to By-law 07-062, as amended, is further amended as set out in Schedule 1 to this By-law.
PASSED AND ENACTED this__________day of ________, 2010

___________________________    _________________________
Fred Eisenberger               Rose Caterini
Mayor                          City Clerk
Schedule 1 to By-law 10-___

Amendment No. 5
to the
Downtown and Community Renewal
Community Improvement Plan

The following text constitutes Amendment No. 5 to the Downtown and Community Renewal Community Improvement Plan.

Purpose
• To add the Hamilton Heritage Property Grant Program.

Location

The lands affected by the amendment are contained within the Downtown and Community Renewal Community Improvement Project Area, designated by By-law 07-61, as amended.

Basis
• The addition of the Hamilton Heritage Property Grant Program is consistent with the goals and objectives of the Community Improvement Plan, including encouraging the preservation and enhancement of significant heritage resource and stimulating private property reinvestment.

Actual Changes

1. Section 8.0 is amended as follows:
   a) After the last paragraph of Section 8.1.5., a new section is added as follows:

   “Section 8.1.6. Hamilton Heritage Property Grant Program

   The Hamilton Heritage Property Grant Program (HHPGP) provides financial assistance for structural/stability work required to conserve and restore heritage features of properties; the conservation and restoration of heritage features of properties; and, for heritage studies/reports/assessments that are designated under Parts IV or V of the Ontario Heritage Act. Eligible properties must be located within the Downtown Hamilton Community Improvement Project Area or within active Business Improvement Areas within the City of Hamilton.
The applicant must be the property owner or any person whom the owner has been assigned the right to receive the grant to be eligible to apply for the grant program. The grant is contingent on properties being designated under Parts IV or V of the Ontario Heritage Act or are eligible for designation pursuant to Ontario Regulation 9/06. A condition of the grant is that the property is designated under Parts IV or V of the Ontario Heritage Act prior to grant monies flowing to the applicant.

The grant will be based on 25% of the total cost of regeneration of the property to a maximum City grant of $150,000 for eligible work under the program. The heritage related reports/assessments/studies component provides an additional grant that will fund 100% of the cost of the document(s) to a maximum of $20,000 per property.

Council has adopted by resolution the detailed implementation measures to allow for the efficient administration of this program. These administration procedures are appended in Appendix ‘F’ to this C.I.P.”.

Implementation

The provisions of Section 6A of the former Hamilton-Wentworth Official Plan and Section 28 of the Planning Act give effect to this amendment.

This amendment constitutes Schedule 1 to By-law No. 10-___ passed on the ____ day of __________, 2010.
HAMILTON HERITAGE PROPERTY
GRANT PROGRAM

Program Description:

The Hamilton Heritage Property Grant Program (HHPGP) is intended to provide financial assistance in the form of a grant for structural/stability work required to conserve and restore heritage features of properties; the conservation and restoration of heritage features of properties; and for heritage studies/reports/assessments for properties that are designated under Parts IV or V of the Ontario Heritage Act. Eligible properties must be located within the Downtown Hamilton Community Improvement Project Area or within an active* Business Improvement Area within the City of Hamilton.

The objective of the Program is to assist in developing and re-using heritage properties. City Council values heritage properties as important to the urban revitalization and regeneration of the Downtown Core and Business Improvement Areas. Conservation and restorative initiatives must be consistent with the policies, principles and design themes contained within the Downtown Hamilton Secondary Plan, relevant Urban Design Guidelines, regulations contained within applicable Zoning By-laws as well as any other applicable City Council approved policies/regulations.

Terms of the Program:

- The applicant must be the property owner of a historically designated property or, any person whom the owner of such property has assigned the right to receive the grant, to be eligible to apply for the program.
- The grant is contingent on properties being designated under Parts IV or V of the Ontario Heritage Act or are eligible for designation pursuant to Ontario Regulation 9/06.
- A condition of the grant is that the property is designated under Parts IV or V of the Ontario Heritage Act prior to grant monies flowing to the applicant.
* An active B.I.A. is not considered dormant as defined in the Dormant Business Improvement Area Status Procedure as approved by City Council at its meeting held November 11, 2009.

- An application fee of $310 is to accompany the application. The rate of the fee may be changed from time to time as approved by City Council.
- Proposed work cannot commence prior to: a Heritage Permit; or easement approval; or other City approval, being issued for the heritage component.
- Proposed work cannot commence prior to all planning and building code approvals required for structural/stability works.
- The Downtown and Community Renewal Division reserves the right to recommend works that are integral to the preservation of the building required to preserve/conserve the heritage features.
- Proposed work is to be completed within two calendar years of the date of approval of the General Manager of the Planning and Economic Development Department to be eligible for payment. A one year extension can be authorized by the Director of Downtown and Community Renewal.
- Payment will be made by the City upon proof by an architect or engineer confirming the value of the work completed and the compliance with all applicable regulations/legislation or upon proof satisfactory to the City confirming the value of the work completed.
- Realty taxes must be paid current and in good standing.
- Notwithstanding the above, upon completion of the improvements on condominium properties, the Downtown and Community Renewal Division 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 grant will be advanced proportionately based upon the percentage of paid taxes. The remainder of the grant will be cancelled.
- Funding will not be applied retroactively to any work undertaken prior to grant approval.
- The grant will be based on 25% of the total cost of regeneration of the property to a maximum City grant of $150,000 for eligible work under the program.
- Work completed must comply with estimates, and work proposed and identified within the application unless previously approved by the Downtown and Community Renewal Division.
- The grant is not transferable upon sale of the property.
- The heritage grants may be received by an owner in conjunction with any other City heritage program available including the Commercial Heritage Property Restoration Program and the Community Heritage Trust Program. Funding under these programs will not fund the same work and will be contingent on total financing under all heritage programs not exceeding 50% of the total cost of the restoration/conservation work.
The heritage grant may also be received by an owner in conjunction with any other available City program in support of the redevelopment/development of the property including the City’s Hamilton Downtown Multi Residential Property Investment Program; the Hamilton Downtown Property Improvement Grant Program, the Commercial Corridor Housing Loan and Grant Program and the Commercial Property Improvement Grant Program. Funding under these programs will not fund the same work.

Whether or not an Applicant satisfies the requirements of the Program, the City may 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 are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).

Heritage Related Reports/Assessments/Studies Component:

The heritage related reports/assessments/studies component provides an additional grant that will fund 100% of the cost of the document(s) to a maximum of $20,000 per property.

The applicant shall retain a qualified consultant to complete the heritage related reports/assessments/studies, who is acceptable to the City (Downtown and Community Renewal and Community Planning and Design).

The final document is to meet the satisfaction of the City (Downtown and Community Renewal and Community Planning and Design).

Copies of the final document shall be provided to the City (Downtown and Community Renewal and Community Planning and Design) and may be used as the basis for future work on the property by a future owner should the ownership of the property change.

Eligible structural/stability work:

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.

Eligible conservation work:

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 accompanying the designating by-law under the Ontario Heritage Act.

The conservation of significant architectural features is eligible. 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.

- 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.

- 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, stucco repair, repair or replacement of original roofing materials (slate, wood shingles, tile, etc.). Eligible work also includes removal of a modern material (synthetic siding, asphalt shingles, etc.) and replacement with documented original materials.

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

- The reconstruction of 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.

- Cleaning of masonry buildings may be eligible if it is necessary for the building’s preservation. Under no circumstances will grants be paid for any form of abrasive cleaning, (e.g., sandblasting or sodablasting) or high-pressure water cleaning. Heritage Staff approval is required as to cleaning method to be employed before work is undertaken.

- 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. Painting of unpainted masonry is not eligible.

Non-eligible works:

The following works, including repair, maintenance, reconstruction or improvements to the following are ineligible for grant assistance:

- Short-term, routine maintenance. This includes minor repairs (such as repairing a broken step or a broken window); repair of non-original siding or roofing materials (aluminum siding, asphalt shingles, etc.)

- Landscaping

- Work on modern additions

- Work on sheds or outbuildings not specifically referred to in the Reasons for Designation, the Statement of Cultural Heritage Value of Interest or, a description of the Heritage Attributes

- Installation of modern doors and windows unless replicas of the original
• Installation of new storm or screen doors and windows
• Chimney repairs other than restoration of a significant chimney
• Repair of eavestrough unless its nature is such that it is significant to the heritage of the structure
• Repairs to or renewal of modern materials
• Painting previously unpainted masonry
• Interior Work
• Abrasive cleaning (e.g. sandblasting or sodablasting) or high-pressure water cleaning
HAMILTON DOWNTOWN PROPERTY IMPROVEMENT
GRANT PROGRAM

PROGRAM DESCRIPTION

The intent of the Hamilton Downtown Property Improvement Grant Program (the “Program”) is to provide an economic catalyst for developing, redeveloping or renovating residential/commercial lands and buildings located within the Downtown Hamilton Community Improvement Project Area (as such boundaries are presently defined). As a pilot project, from May 2010 to April 2011, the City will waive the requirement that a building have an annualized vacancy rate of 50%.

This Program authorizes for each approved grant application, a five year grant, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes. The increase in municipal realty taxes (City portion only) will be based on either the year in which the building permit that initiated the development/redevelopment was issued or, for properties where the proposed development/redevelopment does not require a building permit, the year in which City Council approved the grant amount, and, the first full year in which the property is reassessed. The grant shall be an amount which does not exceed 100% of the municipal realty tax increase during the first year, 80% in year 2, 60% in year 3, 40% in year 4, and 20% in year 5. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

Before any grant is provided to the applicant for a property for which a satisfactory grant application has been received and approved, realty taxes are required to have been paid as billed each year and, the property shall be in compliance with the program’s requirements and conditions.

The first-year of the grant is payable by the end of the calendar year in the first full year of reassessment, post completion, of the redevelopment/development. For residential condominium projects, the first-year grant is payable by the end of the calendar year in which 75% of the residential condominium units within the project are fully assessed, and is calculated on a rateable per unit basis.
For commercial projects, the first year of the grant is payable by the end of the calendar year in the first full year of reassessment, post completion, of the redevelopment/development regardless of the number of commercial units occupied.

The grants may be received by an owner in conjunction with any other available municipal program in support of redevelopment/development, including the municipality’s loan and heritage programs. The approved grants are not assignable by the owner to anyone, except to the initial purchaser of any condominium unit or to the City of Hamilton. The total of each property’s five years of approved grants shall not exceed the costs of the property’s development/redevelopment.

A limited assignment of the grant under the terms of the Program may be made from a registered or assessed owner of the property to the initial purchaser of each new condominium unit. The assignment of the grant shall not apply to any subsequent re-sale of any such unit. The assigned grant shall be restricted to the balance of the five (5) year term running from the re-assessment date following the date of the registration of the condominium. The first-year grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a rateable per unit basis. In addition to the one time $660 application fee, a one time administration fee of $340 per unit shall be deducted from the initial grant payment. Fees will be authorized through a by-law passed by City Council. The rate of the fees may be changed from time to time as approved by City Council.

For applicants who choose not to assign the grant to the initial purchasers of each condominium unit, the grant will be earned by the applicant if they have met all terms and conditions of the Program including payment of taxes during the development stage only. The annual grant to the applicant will be pro-rated if an appeal has been filed with the Municipal Property Assessment Corporation by any of the condominium unit owners. The grant for condominium units that are under appeal will not be released until the appeals are settled through the Assessment Review Board. The first year grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a rateable per unit basis.

An applicant can assign the grant to the City of Hamilton as payment of their loan under the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program or its successor program.

The applicant will be required to enter into an Agreement with the City of Hamilton that sets out the conditions of the annual grant.

Redevelopment/development will commence no longer than 2 years following City Council’s approval of the grant or the grant will be cancelled. The 2 year period may be extended by the City Council at its absolute discretion.
In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property the City shall have absolute discretion in ceasing any further grant payments.

Change of Corporate Control:

Where the Owner is a corporation the Owner covenants and agrees that in the event that:

a) the Owner 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 Owner 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 Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or
   iii) the Owner 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 Owner, or the requested information is not provided, then future grant payments under the Program shall cease at the absolute discretion of the City.

Whether or not an Applicant satisfies the requirements of the Program, the City may 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 are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).

---

**Grant Criteria**

Projects that include developing, redeveloping or renovating residential/commercial lands and buildings within the Enterprise Zone are eligible under the Program. Approval of the application and estimated grant amount is subject to City Council approval. Such application shall be submitted and only received if it is prior to the owner’s commencement of improvements/rehabilitation to their property and shall include plans, estimates, contracts and other details as may be required to satisfy the City as to the cost of the project and as to the conformity of the project with the objectives of the Downtown and Community Renewal Community Improvement Plan.

Such project is also required to be in compliance with the City’s other by-laws and policies, including zoning, site plan approval, design guidelines, heritage matters including preservation of historical buildings. The compliance of each
application with the criteria of this Program and the estimated amount of the Property’s grants (within the permitted terms of this Program) is at the discretion of and subject to Council approval.

For an existing building to qualify, it is also required to have at least a 50% annualized vacancy rate. In this regard the application shall, at a minimum, by affidavit confirm the annualized vacancy rate, provide a copy of the supporting letter from the B.I.A.s’ Board of Management confirming the vacancy rate (if the property is located within a B.I.A.), or provide other satisfactory documentation confirming that the property, one year previous to the date of application had at least a 50% vacancy rate.

The 50% annualized vacancy requirement will be waived from May 2010 – April 2011 as a pilot, in an effort to generate investment in the rehabilitation of older buildings in the Downtown Hamilton Community Improvement Project Area. City Council will ascertain the level of take-up in the pilot program in Q3/11 and decide on the Program’s continuation/cancellation or restructuring.

All parking lots and vacant sites are eligible (provided said vacant sites were existing as of July 1, 2001). Notwithstanding the foregoing, properties upon which commercial, residential or industrial buildings are cleared and demolished after July 1, 2001, may be declared by Council as eligible to apply where:

1) The commercial, residential or industrial building(s) intended to be demolished or cleared after July 1, 2001, are not designated heritage building(s);

2) Prior to the clearance and demolition, the owner of the property informs Council of:
   • their plans for the demolition and clearance; and,
   • their plans for the redevelopment of the property through the application for a grant under this Program;

3) The proposed redevelopment of the cleared and demolished property shall be for residential and/or commercial uses expressly permitted by the Zoning By-law applicable to such property;

4) Council declares, after reviewing the property owner’s submissions, the City’s Official Plan, the City’s Hamilton Downtown Secondary Plan, the City’s Design Guidelines, and site plan considerations – that the proposed clearance or demolition of the building(s) and the proposed redevelopment of the property would be in conformity with the Downtown and Community Renewal Community Improvement Plan, including its goals and objectives; and,

5) The demolition or clearance of the building(s) is not commenced until after Council’s declaration is made and communicated to the property owner.
Note: All hotels and motels that have an annualized occupancy of less than 50% would qualify under the eligibility requirements of the Program. Vacancy is subject to confirmation by affidavit and other supporting documentation by the hotel management.

This Program shall not apply to existing or to proposed Second Level Lodging Houses or to Short or Long Term Care Facilities.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend City of Hamilton By-law No. 10-052 as amended to delegate authority to the General Manager, Planning and Economic Development for certain grants and loans under the Downtown and Community Improvement Plan

WHEREAS the Council of the City of Hamilton enacted a by-law to delegate authority to the General Manager, Planning and Economic Development with respect to certain grants and loans under the Downtown and Community Improvement Plan being City of Hamilton By-law no. 10-052;

AND WHEREAS this By-law provides for technical amendments to City of Hamilton By-law No. 10-052;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. City of Hamilton By-law No. 10-052 as amended, is amended by inserting the following to Section 2.2 (1) after (b): “(c) Hamilton Heritage Property Grant Program”.

2. This By-law comes into force on the date of its passing.
PASSED and ENACTED this day of , 2010.

FRED EISENBERGER
MAYOR

ROSE CATERINI
CITY CLERK