

City of Dundas

Business Subsidy Policy

**Adopted by the Dundas City
Council**

9.13.2021

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I. Purpose

A. The purpose of this business subsidy policy (“Policy”) is to establish criteria regarding the use of business subsidies for private development by the City of Dundas (the "City") and the Dundas Economic Development Authority (the "EDA"). The criteria established by this policy shall be used as a guide in the processing and reviewing of all applications requesting business subsidies.

B. This Policy is adopted for purposes of Minnesota Statutes Sections 116J.993 through 116J.995, as may be amended. Terms used in this policy are intended to have the same meanings as if used in the Business Subsidy Act (“Act”) and any amendments or modifications to the Act shall amend or modify the definitions and terms of this Policy without further action of the City. This Policy shall apply only with respect to subsidies granted under the Act if and to the extent required thereby.

C. “Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy Act.

Notwithstanding this definition, “Business Subsidy” as defined also includes the following forms of “Financial Assistance” and is subject to this policy with the exception of the required public hearing, if the amount is less than \$150,000, and limited reporting forms shall be required:

- A Business Subsidy of \$25,000 or more; and
- Business loans and guarantees of \$75,000 or more

D. Business subsidies shall be used to enhance, stabilize, and grow the community by providing resources to increase the tax base, provide necessary goods and services, retain or reuse historically significant properties, remediate pollution, revitalize neighborhoods, retain and increase quality jobs, eliminate blight, implement the Comprehensive Plan, and enhance the economic growth and opportunity in the City.

E. This Policy shall be used as a guide in processing and reviewing business assistance requests. All requests shall be reviewed on a case-by-case basis, focusing on providing the lowest possible level of business assistance, for the least amount of time, to leverage and optimize private investment.

F. Any applicant who is not in good standing with the City, in regards to any

licenses, fees, property taxes, or other specific City charges, shall not be considered for business subsidies.

G. All requests for business assistance must comply with the Act and applicable law.

H. A Business Subsidy Recipient must:

1. Comply with the City's comprehensive plan and any other plans or guides created by the City to guide development,
2. Enter into a business subsidy agreement with the City that complies with the Business Subsidy Act and the requirements set forth herein,
3. Meet a public purpose as described in Section IV below and either achieve job and wage goals as described in Section II. C below or meet the goals described in Section II D. Below,
4. Meet all of the additional polices set forth in Section II. D below, including holding a public hearing if required and complying with payback provisions.

II. Authority

A. The City and EDA's ability to grant business subsidies is subject to the limitations established in the Business Subsidy Act.

B. Unless specifically excluded by the Business Subsidy Act, a business subsidy may include grants by a state or local government agency, loans, forgivable loans, contributions of property or infrastructure, tax increment financing, tax abatement, or any preferential use of government facilities given to a business.

C. The City and EDA retain absolute authority and discretion and reserve the right to amend or waive sections of this policy when necessary or appropriate. Minnesota Statute, Section 116J.994, Subd. 2, allows the City or EDA to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development (the "Department").

D. Minnesota Statute, Section 116J.993, Subd. 3 exempts certain forms of financial assistance from the requirements of the Business Subsidy Act.

E. Incentives will be offered based on the nature of the project and the benefits to the community. Meeting all or a majority of the criteria does not necessarily mean that a business subsidy will be approved by the City or EDA. The City and EDA maintain the ability to approve or deny a business subsidy at their discretion, based on the merits of the project and the overall benefit to the community, using the criteria as a means of measuring the overall benefit. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project.

F. The City reserves the right to modify the Policy from time to time in accordance with the Act.

G. A Business Subsidy valued at \$150,000 or more requires a public hearing with at least a 10-day notice in the local newspaper. A public hearing for another purpose such as tax increment financing or tax abatement may be combined with the Business Subsidy hearing.

H. A copy of the Business Subsidy agreement must be on file with the City.

III. Definitions

A. The City and EDA hereby adopt the definitions pursuant to Minnesota Statute, Section 116J.993.

IV. Minimum Criteria

A. In order to be eligible for a business subsidy, all business subsidy requests shall meet the following minimum criteria.

1. The business subsidy request shall be in compliance with the Business Subsidy Act.
2. The project must be consistent with the applicable provisions of the Comprehensive Plan, Zoning Ordinances, Design Guidelines, and any other land use document applicable to the project.
3. All projects must contribute to one or more of the City's goals and policies outlined in the Comprehensive Plan.
4. A business, non-profit, or developer requesting a business subsidy shall complete and submit a Business Subsidy Application, along with an application fee and escrow deposit determined by the City or EDA.
5. For the purposes of evaluating the request, the applicant shall provide all requested market and financial feasibility studies, appraisals, environmental data, private lender commitment and information provided to private lenders regarding the project, and other information requested by the City, EDA or its consultants, in order for the City or EDA to evaluate the proposal and determine whether the request is consistent with this policy.
6. The applicant shall proactively attempt to minimize the amount of public assistance needed through the pursuit of grants, innovative solutions in structuring the deal, and other funding mechanisms.

7. The applicant shall provide adequate financial guarantees to ensure completion of the project and repayment of any business subsidy (if repayment is required), unless an exception is granted by the City or EDA. These may include, but are not limited to, assessment agreements, letters of credit, personal deficiency guarantees, and mortgages.
8. The applicant shall be required to enter into a business subsidy agreement, as stated with the City that complies with the Business Subsidy Act and the requirements of Section VII,
9. All business subsidies must meet a public purpose as described in Section V and, when applicable, the Jobs and Wage Goals in Section VI.

V. Public Purpose Objectives

A. In accordance with the Business Subsidy Act, all business subsidies shall meet a public purpose, and have a measurable benefit to the community. The City or EDA will consider the following public purpose objectives:

1. Diversification of the local economy;
2. Create additional jobs within the City;
3. Retention of local jobs, provided that the job retention is only used as a public purpose in cases where job loss is specific and demonstrable;
4. Removal of blight and/or encouraging redevelopment within the community to obtain high levels of property maintenance and private reinvestment;
5. Encourage additional unsubsidized private development within the community, either directly, or indirectly;
6. Facilitate and promote development on property that could not be developed without assistance;
7. Assist the City is achieving a demonstrated goal of the Comprehensive Plan.
8. Enhance the economic diversity of the City and to provide essential products and services within the City.
9. Increase the City's tax base.
10. Increase and/or diversify the City's housing stock

11. Assist businesses that demonstrate a clear and ongoing commitment to the community.
12. Improve the appearance of buildings within highly visible transportation corridors.
13. Decrease the capital and operating costs of local government.
14. Assist in the development of public improvements of facilities.
15. Promotion of quality urban design and/or quality architectural design.

B. Business assistance funding should not be provided to those projects that fail to meet good public policy criteria as determined by the EDA and City, including, but not limited to:

1. Poor project quality. Following consultation with the City's consulting engineers.
2. Projects that are not in accord with the comprehensive plan, zoning, redevelopment plans, and city policies.
3. Project that provide no benefit or improvement to surrounding land use, the vicinity, and/or the City.
4. Projects that do not meet financial feasibility criteria established by the City and following consultation with the City's economic development consultants.
5. Projects that do not meet the highest and best use for the property.
6. Business assistance should also not be used when the developer's credentials, in the judgement of the City, are inadequate due to past record of accomplishment relating to timeliness and quality level of completed projects, credit worthiness, or other relevant considerations by the City.

VI. Job and Wage Goals

A. Specific job and wage goals shall be determined by the City or EDA and shall be given consideration based upon the particular form of the business subsidy requested, nature of the development, purpose of the business subsidy, local economic conditions, and other similar factors.

- A. The project shall create and retain at least one full-time equivalent (FTE) job with a minimum wage of at least 100% of the median wage for Rice County for the particular industry sector that the business is categorized by, in accordance with the North American Industry Classification System (NAICS). The wage information will be obtained from the Minnesota Department of Employment and Economic Development (DEED), and shall be equal to or greater than the living wage (110% above the current poverty level for a family of four, exclusive of benefits).
- B. Wage goals may be set to enhance existing jobs through increased wages, which increase shall result in wages higher than the minimum under this Section.
- C. In cases where the objective is the retention of existing jobs, the applicant of the business subsidy request shall provide evidence that demonstrates the loss of jobs is imminent.
- D. The jobs to be created or retained by the applicant shall result in job creation or retention within the City.
- E. In addition to other specific time frames, the job and wage goals shall contain specific requirements to be attained within two (2) years of the benefit date, unless an exception is granted by the City or EDA.
- F. If a particular project does not involve the creation of jobs, but is nonetheless found to meet another public purpose of the City, it may be considered without any specific job wage goals, as permitted by Minnesota Statutes. This public purpose shall be something other than an increase to the City's tax base. Other measurable, specific and tangible goals must be established.

VII. Subsidy Agreement and Reporting

- A. In accordance with the Business Subsidy Act, a recipient shall enter into a subsidy agreement with the City or EDA. The subsidy agreement shall include, but is not limited to, the following:
 - 1. A description of the subsidy, including the amount and type of subsidy, and the type of district if the subsidy is tax increment financing;
 - 2. A statement of the public purpose(s) of the subsidy;
 - 3. Measurable, specific and tangible goals for the subsidy;
 - 4. A description of the financial obligation of the recipient if the goals are not met;
 - 5. A statement of why the subsidy is needed;

6. A commitment to continue operations in the jurisdiction where the subsidy is used for at least five (5) years after the benefit date;
 7. The name and address of the parent corporation of the recipient, if any;
 8. A list of all financial assistance by all grantors for the project.
- B. A recipient that fails to meet the terms of a subsidy agreement:
1. Must repay the assistance provided with interest, which is set at no less than the implicit price deflator as defined in the Business Subsidy Act, Minnesota Statute, Sections § 116J.993 to 116J.995. Repayment may be prorated to reflect partial fulfillment of goals.
 2. May not receive a business subsidy from any grantor for a period of five (5) years from the date of failure or until a recipient satisfies its repayment obligation, whichever comes first.
 3. A recipient may be authorized to move from the City within five (5) years of the benefit date (as defined in the Business Subsidy Act) only if, after a public hearing, the City or EDA approves the request to move. The City or EDA reserves the right to discontinue the business subsidy if the recipient moves from the City.
- C. All Business Subsidy Recipients must agree to continue operation within the City for at least five years after the benefit date as described in the Business Subsidy Act. After a public hearing, the City may authorize the Business Subsidy Recipient to move outside the City within the first five years of operation.
- D. The City shall monitor the progress by the recipient in achieving the goals contained in the business subsidy agreement, and the recipient shall cooperate in all respects in meeting the reporting requirements contained in Minnesota Statutes Section 116J.994, subd. 7.
- E. The applicant and City or EDA shall comply with the reporting requirements set forth in Section 11 6J.994, Subd. 7 and 8 of the Business Subsidy Act. The City or EDA shall file a report by April 1 of each year with the Department regardless of whether or not they have awarded any business subsidies.