

BARTON / KENILWORTH REVITALIZATION GRANT (BKRG) PROGRAM



A. PROGRAM DESCRIPTION

The Barton / Kenilworth Revitalization Grant Program is intended to support the development of properties as well as the maintenance, functionality, viability, accessibility and aesthetics of existing commercial, mixed use commercial, multi-residential or institutional use buildings within the Barton Street and Kenilworth Avenue North commercial corridors which were the subject of the Barton and Kenilworth Commercial Corridors Study.

This Program is not intended to provide support for temporary or non-permanently affixed improvements. Additional details regarding ineligible items are provided within Section C herein.

Any portion of a project involving renovations to rental residential units shall only be eligible under this Program in accordance with Section B, paragraph eight herein.

This Program will apply within the Barton Village Commercial District CIPA, the Barton Street and Kenilworth Avenue North Strategic Commercial Corridor CIPAs and properties within the Downtown Hamilton Commercial District CIPA which front on Barton Street East between James Street North and Victoria Avenue North as collectively defined through the Revitalizing Hamilton's Commercial Districts Community Improvement Project Area (RHCD CIPA) By-law.

Grants provided under this Program shall be provided to the Applicant who is the Owner registered on title of the property that is the subject of the Program application or an authorized commercial tenant of said property.

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.

All costs associated with the improvement/development and the requirements of this Program are to be borne by the Applicant including construction, design, development charges, administration fees, professional services, appraisals, inspections, legal and registration fees, where applicable except where deemed eligible within Section C herein.

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

B. PROGRAM ELIGIBILITY AND GRANT CRITERIA

1. Applications to this Program must meet the goals of the Revitalizing Hamilton's Commercial Districts Community Improvement Plan (RHCD CIP).
2. This Program will apply within the Barton Village Commercial District CIPA, the Barton Street and Kenilworth Avenue North Strategic Commercial Corridor CIPAs and properties within the Downtown Hamilton Commercial District CIPA which front on Barton Street East between James Street North and Victoria Avenue North as collectively defined through the RHCD CIPA By-law.
3. Notwithstanding paragraph two, this program shall not apply to a currently operating or proposed adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, lodging house or residential care facility as defined in the applicable Zoning By-law or to a property where a designated heritage building has been demolished.
4. The maximum Grant amount under this Program is paid on a matching basis (50%-50%) for eligible work to a maximum of \$50,000.
5. A maximum Grant in accordance with paragraph four herein may be provided per deeded property. This maximum may be achieved through more than one application for the same property.
6. Commercial property owners registered on title as well as tenants authorized in writing by the registered property owner are eligible to apply for a Grant under the Program.
7. Applicants will be required to provide a business case that identifies how the improvement/development will improve the marketability of the property for prospective tenants and/or improve business vitality and/or utilize formerly under-utilized properties and will be subject to acceptance at the sole discretion of the General Manager of Planning and Economic Development (GM).
8. Any portion of a project consisting of renovations to residential rental units shall not be permitted under this Program except where at least one of the following exceptions are met to the satisfaction of the City:
 - a. There has been no residential rental tenant displacement. Applicants shall be required to submit supporting documentation that demonstrates residential rental tenants have not been displaced. Documentation required to be submitted, and the acceptance of such documentation in terms of satisfying this condition, shall be at the discretion of the City;

- b. The project has been approved for financial assistance under a Canada Mortgage and Housing Corporation (CMHC), Federal, Provincial or City program for the purposes of creating residential rental housing to address housing affordability in the city;
 - c. The existing building has been entirely vacant for at least two years prior to a program application being submitted to the City (not including periods of vacancy due to renovations);
 - d. The property owner and program applicant are a registered not-for-profit organization;
 - e. The interior renovations primarily support improvements to a commercial space or will improve/replace shared building services utilized by both a commercial space and the rental residential units within the same building (such as plumbing, electrical or Heating, Ventilation and Air Conditioning (HVAC) systems) but shall not include renovations within individual residential rental units; or
 - f. The planned renovations are solely in response to the landlord/property owner being ordered to make repairs under any act or law or where the renovations are intended to support the legalization and/or recognition of an existing residential rental unit, without which, the unit would no longer be permitted to be occupied.
9. Prior to any Grant being provided:
- a. Any 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 shall be rectified; and
 - b. Any tax arrears on the subject property(s) as well as tax arrears on other properties owned by the Applicant within the City of Hamilton shall be paid.
10. Eligibility requirements for the Program relating to the work to be funded will be specifically identified. Two separate cost estimates for the work are to be provided. 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.

Grants will be calculated based upon lowest cost estimate.

A Building Inspector will review all estimates provided for the purpose of ensuring competitiveness.

11. Relative to the proposed improvements, a Building Inspector will perform an initial and final inspection / investigation to confirm compliance with various Acts, Regulations and City By-laws, but not limited to including the Ontario Building Code, Property Standards By-Law, Trade Licensing By-Law and Sign By-law.
12. Approval and the receiving of financial assistance under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same subject property under any other available municipal program. However, where specific work is the subject of this Program and any other Program the total Grant for the work across all applicable programs shall not exceed 50% of the total cost of the specific work.
13. Proposed improvement/development are to be completed within one year from the date the Program application was approved in order to be eligible for payment. A one-year extension may be authorized by the Manager of Commercial Districts and Small Business if an Applicant has extenuating circumstances which would warrant an extension.
14. Work completed must be consistent with estimates, and work proposed and identified within the application unless previously discussed and approved by the Manager of Commercial Districts and Small Business.
15. The Applicant shall provide to the City's Commercial Districts and Small Business Section copies of paid invoices and proof of payment to the satisfaction of the GM for all work undertaken on the property for which the Grant is applicable. This documentation is to be provided prior to the final inspection.
16. A City Building Inspector's final inspection report confirming all works have been carried out satisfactorily must be provided prior to release of any Grant monies.
17. A Grant under this Program will be provided to an approved Applicant if all terms and conditions of this Program have been satisfied including payment of all property taxes and all eligible works have been completed at the discretion of the GM.
18. At the sole discretion of the Manager of Commercial Districts and Small Business, partial payments for works completed can be processed consistent with the payment process described herein.
19. At the sole discretion of the Manager of Commercial Districts and Small Business, the Grant cheque can be made jointly payable to the Applicant and the contractor if such a request has been received from the Applicant.
20. The Grant is not transferable upon sale of the property.

21. A successful Applicant will enter into an agreement with the City containing (but not limited to) the terms and conditions set out in this program description.
22. Improvements/developments commenced prior to submitting an application are ineligible for funding under the Program. Works commenced after submitting an application but prior to approval of an application may be eligible for funding under the Program with eligibility determined by the GM 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.
23. Approval of the Program application is at the absolute discretion of the GM and subject to the availability of funds.
24. Without limiting the discretion as set out in paragraph 23 herein, City Council or its delegate, 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.
25. Without limiting the discretion as set out in paragraph 23 herein, City Council 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 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 Zoning By-law regulations or there exist outstanding property standards, building code or fire code orders on the subject property(s).
26. Without limiting the discretion as set out in paragraph 23, herein, City Council or its delegate, 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 Loan and Grant under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this paragraph 26, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 26 shall apply jointly and severally to each of them.

27. Buildings, uses and improvements/developments shall conform to the City's Official Plan(s), applicable Secondary Plan(s), Zoning By-Laws(s), Site Plan approval and any other applicable and approved municipal policies, by-laws or guidelines (e.g. urban design guidelines) and any other laws applicable to the improvement/development.
28. Eligibility of costs associated with exterior signage will be evaluated in terms of:
 - a. Compliance with the City's Sign By-law No. 10-197 as amended; and
 - b. Design and aesthetics in accordance with all applicable City urban design policies and guidelines.

Signage deemed by the City to not meet one or both of these criteria shall not be eligible under this Program.

29. Applicants shall disclose if any residential units are occupied at the time an application has been submitted to the City and, if so, identify the specific units occupied. For additional clarity, the City is not requesting or requiring the disclosure of tenant names or any other personal contact information.
30. Where this program will provide a financial incentive to facilitate the undertaking of external and/or internal property improvements which are not for the sole benefit of a non-residential use, and where the subject property contains occupied unit(s) at the time of application to the City, the occupied unit(s) shall not be the subject of an approved Above Guideline Increase (AGI) request (also referred to as an L5 request) to the Landlord and Tenant Board (LTB) for a period beginning from the date the application is received by the City and ending upon completion of the prescribed term of the incentive to be provided, or five years from the date of the initial financial disbursement, whichever is greater. This condition will continue to apply whether or not the tenancy of the unit(s) changes during this period. Exceptions to this condition may be provided where it can be demonstrated, to the City's satisfaction, that:
 - a. The affected tenant(s) have consented to the proposed AGI. Where there is more than one occupied unit in the building at the time of application to the City, this exception only applies where all affected tenants have consented to the proposed AGI request;
 - b. That the requested AGI is a result of improvements or other matters not related to those improvements facilitated by the City's financial incentive; and,
 - c. Notwithstanding the provision of a financial incentive by the City, an AGI request would be required to facilitate the property improvements due to site or building specific circumstances.

In the event an AGI request is approved by the LTB and determined to be in contravention of the City's condition, and this approval occurs after the City's approval under this

incentive program but prior to the entering into any agreement required by this program, the application approval will be deemed to be rescinded, no incentive will be provided, and no agreement will be entered into by the City. Where the AGI approval occurs after the City's approval and after the execution of any agreement required by this program, any remaining incentive yet to be provided over the remaining term of the program will be cancelled and enforcement action will be initiated to recoup financial incentives provided to-date.

This condition shall not apply to units registered as a condominium.

C. ELIGIBLE/INELIGIBLE IMPROVEMENTS AND COSTS

Note that eligibility of all costs identified within this section shall be subject to Section B, paragraph eight herein.

Eligible improvements include the following:

- Construction of a new building;
- Façade improvements;
- Reinforcement of floors, walls, ceilings and foundations;
- Construction or alteration of stairs, guardrails, handrails;
- Installation or improvement of signage (in accordance with Section B, paragraph 28 herein);
- Roofing;
- Improvements or installation to electrical, ventilation, heating, cooling and plumbing supply systems;
- Installation or alteration of required window openings;
- Installation or alteration of fire protection systems; fire separations; fire doors, fire shutters and other fire protection devices;
- Improvements for barrier-free accessibility including elevators;
- Long-lasting landscaping on private property including tree plantings, shrubs, soil, mulch, grass, statuary, rain gardens and perennial vegetation to a maximum of \$3,000 per application as part of the total Grant awarded; and
- Other improvements deemed health, safety and accessible issues eligible at the sole discretion of the GM.

Other eligible costs include only the following:

- Architectural, engineering, lawyer's, BCIN designer, building permit, sign permit, site plan application, road occupancy permit, street occupancy permit and encroachment agreement application fees are eligible up to 100% of the cost to a maximum of \$3,000 per application as part of the total grant awarded for completed works.

Ineligible costs/improvements include:

- Any temporary or non-permanently affixed improvement such as, but not limited to, outdoor patio furniture, interior furniture, plexiglass partitions or display case equipment;
- Artificial landscaping elements including trees, plants and grass;
- Outdoor heating and cooling equipment;
- Program application fees;
- Business interruption expenses;
- Business equipment;
- Paving;
- Tools; and
- Any other cost/improvement deemed not to meet the intent of this Program at the sole discretion of the GM.

D. PROGRAM APPLICATION CRITERIA

A complete Program application shall be submitted to the Economic Development Division prior to works that are the subject of the Program application have commenced. Required documents and information forming a complete application shall be identified within the Program's application form.

An application fee is payable upon submission of application. The fee will be authorized through a user-fee by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council and will be identified on the Program's application form.

Applications to this program are subject to the approval of the GM in their sole discretion and subject to the availability of funding.

Applications shall include plans, estimates, contracts and other details as may be required to satisfy the City as to the cost of the improvement/development and conformity with the objectives of the Revitalizing Hamilton's Commercial Districts Community Improvement Plan.

E. PROGRAM ADMINISTRATION

Economic Development Division staff will review applications for eligibility in collaboration with other City departments as required with approval of applications subject to a decision by the GM in their sole and unfettered discretion.

Applicants and properties will be the subject of due diligence undertaken by the City prior to any approval being provided or payment of a Grant 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, 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 Grant under this Program.

Approved Applicants shall be required to enter into a Grant Payment Agreement with the City.

The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the City to ensure the goals and purpose of this Program and the Revitalizing Hamilton's Commercial Districts Community Improvement Plan are met.

Applications to this Program not yet approved by City Council (or its delegate) shall be subject to any changes to the terms of this Program which are approved by Council prior to the application being approved.

Applicants seeking eligibility of renovations to residential rental units in accordance with Section B, paragraph eight, shall be required to provide necessary documentation to the City in support of this determination prior to a Grant being provided under this Program (examples of supporting documentation may include, but is not limited to, a signed declaration of a financial commitment issued for the subject improvement/development from the CMHC, Province of Ontario or associated agency and/or City of Hamilton, utility bills or other means of proof with respect to determining building vacancy and duration etc.). Such renovations shall be deemed to be ineligible where supporting documentation has not been provided to the City's satisfaction.