

BARTON / KENILWORTH PLANNING AND BUILDING FEES GRANT PROGRAM



Hamilton

The Barton / Kenilworth Planning and Building Fees Grant Program is intended to provide Grants that will serve as a rebate of specific Planning and Building application fees for approved development-related applications to encourage redevelopment and/or improve the maintenance, functionality, viability, accessibility and aesthetics of commercial, mixed use commercial, multi-residential or institutional use buildings and properties within the Barton Street East and Kenilworth Avenue North commercial corridors which were the subject of the Barton and Kenilworth Commercial Corridors Study.

A. Program Overview/Description

1. For the purpose of this Program:

- a. **“Eligible Planning Application Fees”** and **“Eligible Building Application Fees”** means the fees set out in Section D of this Program;
- b. **“Manager”** means the City’s Manager of Commercial Districts and Small Business;
- c. **“Owner”** means the owner registered on title of the property that is the subject of a Program application;
- d. **“Program”** means the Barton/Kenilworth Planning and Building Fees Grant Program;
- e. **“Project”** means all applicable development phases and all properties/addresses associated with the development/improvement and subject of the Program application;
- f. **“RHCD CIP”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Plan;
- g. **“RHCD CIPA”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Project Area;
- h. **“Signage”** means any sign that is used for the exclusive purpose of the business occupying property and shall not include third-party signs/advertising, off-site promotions, or signs intended to market goods, services or activities not provided on the property.
- i. **“Tenant”** means a commercial tenant of a property, who is authorized in writing by the owner of the property to make an application under the

Program and who will be undertaking the Project that and paying the application fees that are the subject of the Program application to the portion of the property that they lease.

2. This Program applies to properties within the following Community Improvement Project Areas: Barton Village Commercial District, the Barton Street East and Kenilworth Avenue North Strategic Commercial Corridors and properties within the Downtown Hamilton Commercial District that front on Barton Street East between James Street North and Victoria Avenue North, as collectively defined through the RHCD CIPA By-law.
3. Grants provided under this Program shall be provided to the Applicant, who is the Owner or the Tenant.
4. More than one application under this Program may be submitted for a Project. For any Project, the maximum total amount of any individual Grant, or the combined total of all Grants approved under this Program, shall be equal to the fees paid to the City (excluding HST) for one or more of the eligible Planning and/or Building applications identified in Section D herein, to a maximum of:
 - a. \$25,000 for Eligible Planning Applications Fees; and,
 - b. \$25,000 for Eligible Building Applications Feesfor a total maximum Grant not to exceed \$50,000.

B. Program Eligibility and Grant Criteria

5. Applications to this Program must meet the goals of the RHCD CIP.
6. Notwithstanding Section A, Paragraph 2, this Program shall not apply to:
 - a. properties that are currently operating as or that are proposing to operate as adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, gas station, lodging house, parking garage or residential care facility as defined in the applicable Zoning By-law;
 - b. or to a property where a designated heritage building 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; or
 - c. applications for improvements to a self-storage facility, payday loan establishment or any other use deemed not to support the goals of the RHCD CIP as determined at the discretion of the Manager.
7. Eligibility of planning application fees and building application fees associated with applications for exterior signage will be evaluated, to the Manager's

satisfaction, in terms of the proposed sign's compliance with:

- i. The City's Sign By-law No. 10-197 as amended; and
- ii. Design and aesthetics in accordance with all applicable City urban design policies and guidelines.

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

8. The Grant and any entitlement associated with it, shall not be assigned, transferred or otherwise conveyed to any other party. For greater clarity, the Grant is also not transferable upon the sale of the property.
9. A successful Applicant will enter into an agreement with the City containing the terms and conditions set out in this Program description and such additional terms and conditions as determined by the Manager.
10. Applications under this Program may be submitted up to six (6) months after:
 - a. an Eligible Planning Application received final approval; and/or
 - b. an Eligible Building Application was approved, received final inspection and was deemed to be completed.
11. Prior to any Program application approval being provided, the following requirements must be met to the satisfaction of the Manager:
 - a. All municipal property taxes on the subject site are paid and current at the time of Program application review;
 - b. The subject site is in full compliance with applicable Zoning By-law regulations, including permitted uses and any applicable Site Plan approvals;
 - c. There are no outstanding Property Standards orders, Building Code orders, Fire Code orders, or any other orders or directive issued by a judicial, governmental, or regulatory authority relating to the subject site;
 - d. The Applicant and Owner are not involved in litigation with the City;
 - e. The Applicant and Owner are in good standing with respect to all other agreements entered into with the City and with respect to any other amounts owed to the City;
 - f. Any additional requirements as may be determined by the Manager in their sole discretion have been satisfied.
12. Prior to any Grant being provided, the following requirements must be met to

the satisfaction of the Manager:

- a. The Applicant shall provide the Manager copies of paid invoices and proof of payment for all Eligible Planning Application Fees and Eligible Building Application Fees to the satisfaction of the Manager;
 - b. There are no outstanding Property Standards orders, Building Code orders, Fire Code orders, or any other orders or directive issued by a judicial, governmental, or regulatory authority relating to the subject site;
 - c. All municipal property taxes on the subject site are paid and current at the time of Program application review;
 - d. The Applicant and Owner are 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;
 - e. With respect to the Eligible Planning Application Fees, the Planning Application must have received final approval and with respect to the Eligible Building Application Fees, the Project must be complete, and all Building Permits closed; and
 - f. Any additional requirements as may be determined by the Manager in their sole discretion have been satisfied.
13. Approval and the receipt of the Grant under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same subject site and Project under any other available municipal program.

However, where the same Eligible Planning Application Fees and/or Eligible Building Application Fees receive financial assistance from the City, the Grant under this Program shall be based on the net Eligible Planning Application Fees and/or net Eligible Building Application Fees incurred by the Applicant, being the total Eligible Planning Application Fees and/or net Eligible Building Application Fees less any other financial assistance received or to be received from the City for those same fees.

In no instance shall the combined total of all the Grants and financial assistance provided by the City for the same Eligible Planning Application Fees and/or Eligible Building Application Fees exceed 100% of the Eligible Planning Application Fees and/or net Eligible Building Application Fees, up to the maximum Grant permitted under this Program.

14. 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.

C. Approval Authority

15. Approval and denial of the Program application is at the absolute discretion of the Manager and subject to the availability of funds.
16. Without limiting the discretion as set out in Section C, Paragraph 15 herein, the Manager whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where, in the opinion of Manager, the commercial relationship between the City and the Applicant or Owner has been impaired by, but not limited to, the Applicant or Owner 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:

- i. the Applicant identified on the application form;
 - ii. 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 Manager in their sole, absolute, and unfettered discretion;
 - iii. 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 Manager in their sole, absolute, and unfettered discretion.
17. Without limiting the discretion as set out in Section C, Paragraph 15 herein, Manager whether or not an Applicant satisfies the requirements of the Program, may in their 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, 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).
18. Without limiting the discretion as set out in Section C, Paragraph 15, herein, the Manager, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where there is credible information that the Applicant or Owner 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 Section C, Paragraph 18, will be considered to be the

corporation, the officers and directors of the corporation and the shareholders and this Section C, Paragraph 18 shall apply jointly and severally to each of them.

19. A Program application may be denied by the Manager 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.
20. Approval of a Program application by the Manager 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 Manager'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 Manager's approval/direction of the Program application

D. Eligible and Ineligible Application Fees

21. Eligible Planning Application Fees include:

- Minor Variance application fee if:
 - the proposed variance(s) support the revitalization of the corridors; and,
 - the proposed variances are supported by City Planning staff through a recommendation report to the Committee of Adjustment. Where the Committee of Adjustment's decision differs from the recommendations of City Planning staff, the eligibility of the application cost will be determined at the sole discretion of the Manager.
- Site Plan Control Application fee provided that:
 - the Site Plan has received final approval; and
 - a Building Permit to facilitate the development approved through the Site Plan has been issued.

22. Eligible Building Application Fees include:

- Minimum Building Permit Fee (excluding exterior building demolition permits);
- Building Permit Fee;
- Assembly Occupancies fee;
- Residential Occupancies fee (excluding hotels, motels);

- Business and Personal Services fee;
- Mercantile (Retail - Finished only) fee;
- Industrial fee (excluding parking garages and gas stations);
- Mechanical Systems (commercial cooking exhaust system);
- Renewable (Green) Energy Systems;
- Exterior Signs (subject to of Section B Paragraph 10 herein); and,
- Applicable Law Review

23. Ineligible Planning and/or Building Application Fees include:

- Fees for any other type of Planning or Building application not identified above.

E. Program Administration

24. 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.

25. 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.

26. 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 departments as required. Acceptance of the application by the City in no way implies application approval.

27. Applications shall include architectural plans or any other plans as may be required to satisfy the Manager as to the cost of the eligible Planning and/or Building application and conformity with the objectives of the RHCD CIP.

28. If a 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.

29. 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.

30. 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.
31. 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.
32. 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.
33. 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.