

BARTON/KENILWORTH REVITALIZATION GRANT PROGRAM



The Barton/Kenilworth Revitalization Grant Program is intended to provide Grants toward 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. In addition, this Program provides Grants supporting Creative Industries as a catalyst for economic activity, cultural vibrancy and revitalization to the Kenilworth Avenue North Strategic Commercial Corridor.

A. Program Overview/Description

1. For the purposes of this Program:

- a. **“Approval Authority”** means the approver or denier of a Program application.
- b. **“Creative Industry”** includes, but is not limited to:
 - i. visual arts studios and galleries;
 - ii. digital media production;
 - iii. music, film, and performance spaces;
 - iv. design, fashion, and craft production; and,
 - v. rehearsal, recording, and small-scale production facilities.
- c. **“Director”** means the City’s Director of the Economic Development Division:
- d. **“Eligible Improvements”** means those improvements set out in Section D of this Program.
- e. **“Grant”** means a grant under the Program;
- f. **“Manager”** means the City’s Manager of Commercial Districts and Small Business;
- g. **“Owner”** means the owner registered on title of the property that is the subject of

- a Program application;
 - h. **“Program”** means the Barton/Kenilworth Revitalization Grant Program;
 - i. **“RHCD CIP”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Plan;
 - j. **“RHCD CIPA”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Project Area;
 - k. **“Signage”** means any sign that is used for the exclusive purpose of the business occupying the Site and shall not include third-party signs/advertising, off-site promotions, or signs intended to market goods, services or activities not provided on the Site;
 - l. **“Site”** means all properties/parcels of land associated with the building subject to an application under this Program; and
 - m. **“Tenant”** means a tenant of a property, who is authorized in writing by the owner of the property to make an application under the Program and undertake the Eligible Improvements specified in the application to the portion of the property that they lease.
- 2. This Program applies to Sites and buildings with commercial, mixed-use commercial, multi-residential or institutional buildings located within the following Community Improvement Project Areas as collectively defined through the RHCD CIPA By-law:
 - a. properties within the Downtown Hamilton Commercial District that front on Barton Street East between James Street North and Victoria Avenue North;
 - b. Kenilworth Avenue North Strategic Commercial Corridor;
 - c. Barton Village Commercial District; and
 - d. Barton Street East Strategic Commercial Corridor.
 - 3. Grants provided under this Program shall be provided to the Applicant, who is the Owner, or who is the Tenant. The Tenant shall provide the City with written authorization from the Owner that the Tenant is permitted to undertake the Eligible Improvements identified in the Tenant’s Program application.
 - 4. The Program offers two types of Grants, both structured as 70-30 cost-sharing Grants in which the City covers 70% of Eligible Costs for Eligible Improvements, up to the Program’s maximum funding limits:
 - a. A Grant to a maximum of \$50,000 for a property containing commercial, mixed-

use commercial, multi-residential or institutional property/building located within the following Community Improvement Project Areas as defined through the RHCD CIPA By-law:

- i. Kenilworth Avenue North Strategic Commercial Corridor;
 - ii. properties within the Downtown Hamilton Commercial District that front on Barton Street East between James Street North and Victoria Avenue North;
 - iii. Barton Village Commercial District or
 - iv. Barton Street East Strategic Commercial Corridor.
- b. A Creative Industries Grant to a maximum of \$75,000 for a Site containing commercial, mixed-used commercial, multi-residential or institutional building, used for the purpose of a Creative Industry, located within Kenilworth Avenue North Strategic Commercial Corridor Community Improvement Project Area.

A maximum Grant is provided per Site. The maximum may be achieved through more than one application for the same Site.

5. A Grant shall not exceed the lesser of:

- a. the maximum Grant amount provided for in Section A, Paragraph 4 of this Program;
- b. the actual Eligible Costs excluding HST for the Eligible Improvements; or
- c. the lowest cost estimate for the Eligible Costs for the Eligible Improvements provided by the Applicant pursuant to this Program.

B. Program Eligibility and Criteria

6. Applications to this Program must meet the goals of the RHCD CIP.

7. Notwithstanding Section A, Paragraph 2, this Program shall not apply to:

- a. uses that are currently operating as, or that are proposing, adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, lodging house or residential care facility as defined in the Zoning By-law No. 05-200, to a property where a designated heritage building or any designated part thereof, has been demolished in contravention of the *Ontario Heritage Act* or any applicable City by-law or Official Plan policy respecting designated heritage buildings, or parts thereof; and,
- b. 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.

8. A complete Program application shall be submitted to the Economic Development Division prior to:

- a. the commencing of work for Eligible Improvements; and/or,
- b. the issuance of a Building Permit for Eligible Improvements subject to the

Program application, where applicable.

9. Eligible Improvements commenced prior to the submission of a Program application are ineligible. Eligible Improvements commenced after submitting a Program application but prior to approval of a Program application may be eligible for funding under the Program with eligibility determined by the Director in their sole, absolute and unfettered discretion. An Applicant shall assume the risk of any costs incurred after a Program application has been submitted but prior to approval under this Program having been received.

Sites with Existing Residential Rental Units

10. Any demolition, conversion or renovation impacting existing residential rental units located on the Site must comply with applicable law, including but not limited to the Renovation Licence and Relocation By-law No. 24-055, as amended, the Rental Housing Protection By-law No. 24-109, and the Residential Tenancies Act, 2006.

Where such by-laws do not apply, including in cases involving fewer than 6 residential rental units, Section B, Paragraphs 11, 12 and 13 shall apply.

11. Any portion of a Project involving renovations to rental residential units shall be ineligible for a Loan under this Program unless at least one of the following conditions is satisfied:
 - a. No residential rental tenants have been displaced as a result of the Project, as demonstrated through documentation satisfactory to the Director;
 - b. The Project has been approved for financial assistance under a Canada Mortgage and Housing Corporation (CMHC), Federal, Provincial or City program for the purpose of creating residential rental housing that addresses housing affordability;
 - c. The building has been entirely vacant for a minimum period of 2 years prior to the submission of a Program application, excluding periods of vacancy resulting from renovations;
 - d. The Owner is a registered not-for-profit organization;
 - e. The renovations are limited to improvements to commercial space, or to the repair or replacement of shared building systems that serve both commercial and residential units, and do not include renovations within individual residential rental units; or
 - f. The renovations are required solely in response to the 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.

12. Applicants shall disclose if any residential units are occupied at the time a Program application has been submitted to the City and, if so, identify the specific units occupied. For additional clarity, the City will not request or require the disclosure of tenant names or any other personal contact information.
13. Where this Program will provide a financial incentive to facilitate the undertaking of external and/or internal project improvements which are not for the sole benefit of a non-residential use, and where the Site 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 the Project as facilitated by the Grant; and
 - c. Notwithstanding the provision of the Grant, an AGI request would be required to facilitate the Site 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, the Grant amount advanced shall be repayable by the applicant and where necessary enforcement action will be initiated to recoup the Grant advance made.

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

14. In the event that the Applicant fails to comply with the requirements of

Section B, Paragraphs 10-13:

- a. Any approval under the Program may be rescinded prior to execution of any agreement;
- b. Any financial assistance not yet advanced may be cancelled; and,
- c. Where financial assistance has been advanced, the City may require repayment in whole or in part and may take such enforcement action as it deems appropriate.

15. Eligibility requirements for the Program relating to the work to be funded shall be specifically identified by the Applicant. Two separate cost estimates for the improvement(s) as required with the Program application.; however the Applicant will not be required to use the contractor associated with the lowest quoted cost estimate.

A contractor licensed with the City of Hamilton may be required to undertake the work as determined by the City's Building Division. For more information on work that requires a licensed contractor please refer to the Application Form or contact Building Division at (905) 546-2424 Ext. 2720 or building@hamilton.ca.

16. 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.

17. Notwithstanding the requirement in Section B, Paragraph 13 for two cost estimates, the Manager may, in their sole discretion, accept one cost estimate if the Applicant submits a written request acceptable to the Manager demonstrating hardship in obtaining a second cost estimate.

18. Signage must be in compliance with the City's Sign By-law No. 10-197, as amended; and meet all the applicable City urban design policies and guidelines.

19. A City Building Inspector will review all cost estimates submitted as part of an Application to ensure that the proposed work is competitively priced.

Prior to the commencement of any improvements that are the subject of a Program application, a City Building Inspector will conduct an inspection of the portion of the Property where the improvements are proposed. The purpose of this inspection is to assess the existing conditions and to confirm that the proposed improvements appear capable of meeting the requirements of applicable Acts, Regulations, and City By-laws, including but not limited to the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law.

Following completion of the Eligible Improvements, a City Building Inspector will perform a final inspection to verify that the completed work complies with all applicable Acts, Regulations, and City By-laws, including the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law.

20. A Grant is not transferable upon sale of the Site. Grants are only payable to the Applicant for an approved Program application and cannot be assigned or directed to any other payee, including but not limited to, any subsequent owner of the Site or contractor hired to carry out the Eligible Improvements, unless provided for in the Program Administration section herein.
21. Work completed must be consistent with the estimate, and work proposed and identified within the Program application unless previously discussed and approved by the Manager in their sole discretion.
22. Applications and approvals under this Program shall be processed on a first-come, first-served basis, subject to the availability of funding.
23. Eligible Improvements shall be completed within one year of the date of Program application approval. A one-time, extension of up to one year may be granted in a formal request submitted by the Applicant to the City prior to the lapsing of the above time period and subject to consideration and approval at the sole discretion of the Manager.
24. 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.
25. Prior to any Program application approval being provided, the following requirements must be met to the satisfaction of the Manager:
 - a. A complete Program application has been submitted prior to the commencement of any Eligible Improvements and prior to the issuance of any required Building Permits;
 - b. All municipal property taxes on the subject Site are paid and current at the time of Program application review;
 - c. The subject site is in full compliance with applicable Zoning By-law regulations, including permitted uses and any applicable Site Plan approvals;
 - d. There are no outstanding Property Standards orders, Building Code orders, Fire Code orders, or any other orders or directive issued by judicial, governmental, or regulatory authority relating to the subject Site;
 - 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. The Applicant has submitted all required cost estimated for the proposed Eligible Improvements, and such estimates have been reviewed for competitiveness by a City Building Inspector; and
- g. Any additional requirements as may be determined by the Manager in their sole discretion have been satisfied.

26. Prior to any Grant payment being provided, the following requirements must be met to the satisfaction of the Manager:

- a. Eligible Improvements shall be completed one year from the date of the Program application approval by the Manager;
- b. The Applicant has demonstrated that the work completed is consistent with the estimate, and work proposed and identified within the Program application, unless otherwise approved by the Manager;
- c. All municipal property taxes on the subject site remain paid and current at the time of the Grant payment;
- d. 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;
- e. A City Building Inspector has conducted a final inspection confirming that the completed work complies with all applicable Acts, Regulations, and City By-laws, including the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law;
- f. All Building Permits required for the Eligible Improvements have been issued and closed to the satisfaction of the Manager in their sole discretion;
- g. The Applicant has provided, to the Manager, copies of paid invoices and proof of payment of Eligible Cost to the satisfaction of the Manager for all Eligible Improvements undertaken for which the Grant(s) is applicable;
- h. The Applicant has demonstrated satisfactory compliance with all Program terms contained herein; and,
- i. The required Letter of Understanding/Commitment has

been executed, as determined by the Manager in their sole discretion.

27. Approval and receiving of the Grant under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same subject Site under any other available municipal program. However, where specific improvements are subject to the provision of a Grant under this Program and any assistance from the City including any other program, the total Grant for the Eligible Improvements across all applicable programs shall not exceed 70% of the total Eligible Cost of the specific Eligible Improvement(s).

C. Approval Authority

28. Applications under this Program are subject to the availability of funds, and the approval or denial by the person identified in the approval authority by-law applicable to the Program (the "Approval Authority").
29. Without limiting the discretion as set out in Section C, Paragraph 28 herein, the Approval Authority, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may, in its sole discretion, reject any application received from an Applicant where, in the opinion of Approval Authority, the commercial relationship between the City and the Applicant has been impaired by, but not limited to, the Applicant being involved in litigation with the City.

For the purposes of this section "Applicants" shall include, but not be limited to, the following, jointly and severally:

- a. the Applicant identified on the application form;
 - b. if the Applicant is a corporation, any person or entity with an interest in the corporation, any shareholder of the corporation, or any officer or director of the corporation, as determined by the Approval Authority in their sole, absolute, and unfettered discretion;
 - c. if the Applicant is a partnership or limited partnership, any partner or limited partner, and if any such partner or limited partner is a corporation, any person or entity with an interest in the corporation, any shareholder of that corporation, or any officer or director of that corporation, as determined by the Approval Authority in their sole, absolute, and unfettered discretion.
30. Without limiting the discretion as set out in Section C, Paragraph 28 herein, the Approval Authority, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application without further consideration where due diligence undertaken by the City identifies municipal property tax arrears owed on the subject Site, non-compliance with respect to Zoning By-law regulations or there exist outstanding property standards, Building Code or Fire Code orders in respect of the subject Site or any other judicial,

regulatory or governmental order in respect of the subject Site.

31. Without limiting the discretion as set out in Section C, Paragraph 28 herein, the Approval Authority, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application where the Approval Authority determines in their sole discretion that there is a financial risk to the City in terms of the financial capabilities of the Applicant to complete the development subject to the Program application.
32. Without limiting the discretion as set out in Section C, Paragraph 28, herein, the Approval Authority, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where there is credible information that the Applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that they will not conduct themselves with honesty and integrity in undertaking the activity, operation or business for which a Grant under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this Section C, Paragraph 32, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this Section C, Paragraph 32 shall apply jointly and severally to each of them.
33. A Program application may be denied by the Approval Authority if the development is not supported by City Council, notwithstanding any approval of Planning Act applications by any other authority, including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing.
34. Approval, part approval, or denial of a Program application shall not fetter City Council's discretion regarding any Planning Act applications regarding the subject Site, or any other decisions by City Council regarding the subject Site.
35. Approval of a Program application by the Approval Authority may provide for a reduced Grant amount such that no Grant is provided in respect of any portion of the development which City Council does not support notwithstanding any approval of Planning Act applications by any other authority including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that the Approval Authority's decision on the application will not fetter City Council's discretion on Planning Act applications. In such cases, the Applicant shall be required to provide additional supporting documentation, at the Applicant's own expense, to support the providing of financial assistance in accordance with the Approval Authority's approval/direction of the Program application.

D. Eligible/Ineligible Improvements and Costs

36. Eligible Improvements include those that are permanent and physical works on the Site. Eligible Improvements include:

- 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 excluding new pylon signs or the refurbishing of such signs
- 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;
- Installation of new stairs and/or porches leading to entrances to eligible commercial unit front facade of building;
- 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;
- Crime Prevention Through Environmental Design improvements; and,
- Other improvements deemed health, safety and accessible issues eligible at the sole discretion of the Manager.

37. Ineligible 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, window wraps etc.;
- Artificial landscaping elements including trees, plants and grass;
- Outdoor heating and cooling (e.g. patio heaters);
- Paving; and,
- Any other improvements deemed not to meet the intent of this Program at the sole discretion of the Manager.

38. Eligible Costs are the labour and material costs, excluding HST, to complete Eligible Improvements and the following cost incurred in respect of the Eligible Improvements: architectural fees, engineering fees, lawyer fees, Building Code Identification Number designer fees, building permit fees, sign permit fees, site plan application fees, road occupancy permit fees, street occupancy permit fees and encroachment agreement application fees. Total reimbursement for the fees listed in this Section D, Paragraph 37, is available up to 100% of the cost, capped at \$3,000 per Program application, and forms part of the total Grant for Eligible Improvements. Eligible Costs shall not include any of the Ineligible Costs described in Section D, Paragraph 38 herein.

39. Ineligible Costs include:

- Program application fees;
- Tools;
- Business interruption expenses;
- Business equipment; and,
- Any other cost deemed not to meet the intent of this Program at the sole discretion of the Manager.

E. Program Administration

40. Required documents and information forming a complete application shall be identified within the Program's application form. The Program 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.

41. 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.

42. Economic Development Division staff will review applications for eligibility in accordance with the RHCD CIP, RHCD CIPA, the Program terms contained herein and in collaboration with other City staff as required. Acceptance of the application by the City in no way implies Program application approval.

43. The subject Site and Applicant will be the subject of due diligence undertaken by the City to confirm compliance with the Program requirements prior to approval and prior to payment.

Failure to comply with any of the above will result in a Program application not being recommended for approval or, if the application has been approved, non-payment of a Grant under this Program.

44. 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.
45. Where a Program application has been submitted but not yet approved by the Approval Authority and the subject Site is sold/transferred to a new owner, the City may permit the transfer or assignment of the Program application to the new owner at the sole, absolute and unfettered discretion of the Director. An assignment or transfer may require the assignee or transferee to submit an application, assignment or transfer agreement and/or such other documents as determined by the Manager in their sole, absolute and unfettered discretion. The new owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches and financial risk, to the satisfaction of the Director prior to assignment being considered by the Approval Authority.
- Where the original applicant is not the owner of the subject Site, including where the applicant is a Tenant, any transfer or continuation of the Program application following a sale or transfer of the property shall require written confirmation from the new Owner authorizing the applicant to proceed with the application and any associated work. The new Owner shall also be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches and financial risk, to the satisfaction of the Manager prior to any assignment or continuation of the application being considered by the Manager.
46. The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the Manager to ensure the goals and purpose of this Program and the RHCD CIP are met.
47. 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.
48. 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.
49. 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.
50. 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.

51. 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 a Program application approval or Grant being provided.