

COMMERCIAL VACANCY ASSISTANCE (CVA) PROGRAM



A. PROGRAM DESCRIPTION

The Commercial Vacancy Assistance (CVA) Program will provide financial assistance in the form of a Grant to new permanent or 'pop-up' commercial tenants of a presently vacant at, or below grade, commercial space so as to make permanent interior improvements for the purposes of improving the attractiveness and usability of the space for the intended commercial use. To be eligible, the intended commercial use must be accessible to the public/customers and may include, but not be limited to, retail uses, artists studios/galleries containing a retail component, personal service businesses, microbreweries, commercial entertainment uses, commercial recreation uses and/or dine-in or take-out restaurants but shall not include uses identified as being ineligible in Section B, paragraph three herein.

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

This Program will apply to commercial units on properties zoned to permit commercial uses within the Ancaster, Barton Village, Binbrook, Concession Street, Downtown Hamilton, Dundas, Locke Street, Ottawa Street, Stoney Creek, Waterdown and Westdale Commercial District CIPAs, the Mount Hope/Airport Gateway CIPA and the Strategic Commercial Corridor CIPAs 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 an Applicant who is an authorized commercial tenant of a property that is the subject of the Program application.

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, where applicable.

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 to commercial units on properties zoned to permit commercial uses within the Ancaster, Barton Village, Binbrook, Concession Street, Downtown Hamilton, Dundas, Locke Street, Ottawa Street, Stoney Creek, Waterdown and Westdale Commercial District CIPAs, the Mount Hope/Airport Gateway CIPA and the Strategic Commercial Corridor CIPAs as collectively defined through the RHCD CIPA By-law.
3. Notwithstanding paragraph two, the intended commercial use shall only be eligible when located in a commercial space at or below grade and will be accessible to the public/customers and may include, but not be limited to, retail uses, artists studios/galleries containing a retail component, personal service businesses, microbreweries, commercial entertainment uses, commercial recreation uses and/or dine-in or take-out restaurants. Uses not eligible under this Program shall include currently operating or proposed adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, financial institutions, lodging house, medical clinics, office uses, residential care facility, any residential use, any vehicle-oriented commercial service use or any property where a designated heritage building has been demolished. For additional clarity, the uses referenced in this paragraph three shall have the same meaning as defined in Hamilton Zoning By-law 05-200, as amended.
4. The maximum Grant amount under this Program is paid on a matching basis (50%-50%) for eligible work to a maximum of:
 - a. \$5,000 where the Applicant has entered into a lease term of no less than three months and no longer than six months less a day for the space where improvements will be undertaken, and which is the subject of a Program application; or
 - b. \$10,000 where the Applicant has entered into a lease term of six months or longer for the space where improvements will be undertaken, and which is the subject of a Program application.

5. A maximum Grant in accordance with paragraph four herein may be provided per vacant commercial unit with its own municipal address. The maximum grant may be achieved through more than one application and by subsequent tenants of the subject unit.
6. Tenants authorized in writing by the registered property owner are eligible to apply for a Grant under the Program and shall provide to the City a copy of the signed lease agreement for the commercial space/building that is the subject of a Program application.
7. 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.
8. 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 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.
9. 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.
10. 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.
11. Proposed improvement/development are to be completed within one year from the date the Program application was approved by the General Manager of Planning and Economic

Development (GM) or before the conclusion of the applicable lease term for the commercial space subject to the Program application, whichever comes first, in order to be eligible for payment.

12. 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.
13. 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 for the commercial space/building for which the Grant is applicable. This documentation is to be provided prior to the final inspection.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. Approval of the Program application is at the absolute discretion of the GM and subject to the availability of funds.
21. Without limiting the discretion as set out in paragraph 20 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.

22. Without limiting the discretion as set out in paragraph 20 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).
23. Without limiting the discretion as set out in paragraph 20, 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 23, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 23 shall apply jointly and severally to each of them.
24. 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.

C. ELIGIBLE/INELIGIBLE IMPROVEMENTS AND COSTS

Eligible improvements include:

- Interior drywall, painting and wallpaper;
- Interior permanent flooring replacement or refurbishment;
- Construction or alteration of stairs, guardrails, handrails;
- Improvements or installation to electrical, ventilation, heating, cooling and plumbing supply systems;
- Installation or alteration of required window openings;

- Fixed lighting;
- Installation or alteration of interior fire protection systems; fire separations; fire doors, fire shutters and other fire protection devices;
- Interior improvements for barrier-free accessibility including elevators; and
- Other improvements deemed health, safety and accessible issues eligible at the sole discretion of the GM.

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;
- Outdoor patios/decks;
- Non-permanent interior decoration;
- Professional fees;
- City permit and/or application fees;
- Business interruption expenses;
- Business equipment;
- 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 the commencement of works that are the subject of a Program application. 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.