

BARTON / KENILWORTH PLANNING AND BUILDING FEES REBATE (BKPBFR) PROGRAM



A. PROGRAM DESCRIPTION

The Barton/Kenilworth Planning and Building Fees Rebate (BKPBFR) Program is intended to provide grants that will serve as a rebate of specific Planning and Building application fees for approved development-related applications which will support the redevelopment of under-utilized properties as well as further facilitate the undertaking of works that will improve the maintenance, functionality, viability, accessibility and aesthetics of existing commercial, mixed use commercial, multi-residential or institutional use buildings within the Barton Street East and Kenilworth Avenue North commercial corridors which were the subject of the Barton and Kenilworth Commercial Corridors Study.

This Program will apply within the Barton Village Commercial District CIPA, the Barton Street East 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 East 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, gas station, lodging house, parking garage 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 under this Program shall be equal to the fees paid to the City (excluding H.S.T.) for one or more of the eligible Planning and/or Building applications identified in Section C herein to a maximum of \$25,000 for eligible Planning applications and a maximum of \$25,000 for eligible Building applications for a total maximum grant not to exceed \$50,000.
5. A maximum Grant in accordance with paragraph four herein shall be provided per project (with a project deemed to include all applicable development phases and properties/addresses associated with the project). The maximums Grant may be achieved through more than one application.
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. 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. 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.

9. 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 eligible Planning and Building fee applications.
10. 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.
11. The Grant is not transferable upon sale of the property.
12. 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.
13. 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.

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.

14. Approval of the Program application is at the absolute discretion of the GM and subject to the availability of funds.
15. Without limiting the discretion as set out in paragraph 14 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.
16. Without limiting the discretion as set out in paragraph 14 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).

17. Without limiting the discretion as set out in paragraph 14, 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 17, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 17 shall apply jointly and severally to each of them.
18. 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.
19. Eligibility of costs associated with applications for exterior signage will be evaluated in terms of the signs:
 - 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.

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

C. ELIGIBLE/INELIGIBLE APPLICATION FEES

Eligible Planning application fees include:

- Minor Variance application 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 GM.
- Site Plan Control Application (full or minor) 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.

Eligible Building application fees include:

- Minimum Permit Fee (excluding exterior building demolition permits)
- Assembly Occupancies
- Residential Occupancies (excluding hotels, motels)
- Business and Personal Services
- Mercantile (Retail - Finished only)
- Industrial (excluding parking garages and gas stations)
- Mechanical Systems (commercial cooking exhaust system)
- Exterior Signs (subject to paragraph 19 of Section B herein)

Ineligible Planning and/or Building application include:

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

D. PROGRAM APPLICATION CRITERIA

A complete Program application shall be submitted to the Economic Development in accordance with paragraph 13. of Section B herein. 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 eligible Planning and/or Building application 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.