

Authority: Item 2, General Issues Committee Report 23-015 (PED23106)
CM: May 10, 2023 Ward: City Wide
Written approval for this by-law was given by Mayoral Decision MDE-2023 10
dated November 22, 2023

Bill No. 216

CITY OF HAMILTON

BY-LAW NO. 23-216

A By-Law to Authorize the Undertaking of Climate Change Mitigation and Adaptation Works on Private Residential Property as Local Improvements Under the Better Homes Hamilton Program

WHEREAS Part III of Ontario Regulation 586/06, Local Improvement Charges - Priority Lien Status, enacted under the *Municipal Act, 2001*, S.O. 2001, c. 25 ("O. Reg. 586/06"), authorizes a municipality to pass a by-law to undertake work on private property as a local improvement for the purpose of raising all or any part of the cost of the work by imposing special charges on lots upon which all or some part of the local improvement is or will be located;

AND WHEREAS Section 36.5(2) of O. Reg. 586/06 states that the by-law may authorize the undertaking of works which satisfy the requirements of a municipal program for which the municipality has given notice under Section 36.6(2)(b) of O. Reg. 586/06;

AND WHEREAS at its meeting of May 10, 2023, City Council adopted the Better Homes Hamilton program.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Council authorizes the undertaking of Climate Change Mitigation and Adaptation Works on private residential property as local improvements under the Better Homes Hamilton Program, as set out in Schedule "A" to this by-law, for the purpose of raising all or any part of the cost of the work by imposing special charges on lots upon which all or some part of the local improvement is or will be located.
2. Schedule "A" is attached to and forms part of this by-law.
3. Council authorizes the City to enter into Property Owner Agreements as provided for in Schedule "A" hereto with such terms and conditions consistent with Schedule "A" hereon, such additional terms and conditions as required by the Ontario Regulation 586/06 and such additional terms and conditions required by the General Manager of Planning and Economic Development or their designate and the City Solicitor and

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in a form acceptable to the City Solicitor and that the General Manager of Planning and Economic Development or their designate be authorized to execute the Property Owner Agreements and such ancillary documents as necessary to facilitate the program described in Schedule "A" hereto.

4. This by-law may be referred to as the "Better Homes Hamilton By-law"
5. This by-law comes in to force on the day of its passing.

PASSED this 22nd day of November, 2023.

A. Horwath
Mayor

J. Pilon
Acting City Clerk

Schedule "A"

Better Homes Hamilton Program

1.0. Overview

The Better Homes Hamilton Program (the "BHH Program") is currently designed to extend municipal financing to participating homeowners for the installation of climate mitigation retrofit measures, including building envelope, mechanical systems and supporting energy efficiency retrofit infrastructure, as well as home energy assessments and permits, as applicable, and to secure payment by imposing a local improvement charge ("**LIC**") on the property, as authorized by Ontario Regulation 586/06, Local Improvement Charges - Priority Lien Status, enacted under the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "**Regulation**"). The BHH Program will begin as a pilot, offering a maximum of fifty (50) loans to be provided to homeowners during the pilot program. Loans will be a maximum of \$20,000 each over a ten (10) to fifteen (15) year term with zero (0) percent interest over the term of the loan. The City of Hamilton (the "**City**") will administer the program alone or in conjunction with a third-party Program Administrator to be selected at a later date.

1.1. Program Eligibility

Registered owners of eligible properties within the geographic boundaries of the City of Hamilton can participate in the BHH Program.

The following residential building types within the City of Hamilton are eligible for the BHH Program:

- Detached houses,
- Semi-detached houses, and
- Townhomes.

All registered owner(s) of the property must consent to participation in the BHH Program.

The property must have a property tax account with the City and the registered owner(s) are responsible for tax payments directly to the City. All property taxes and other payment obligations to the City must also be in good standing.

1.2. Geographic Scope

Any homeowner of an eligible building outlined in Section 1.1 in the City of Hamilton can participate in the BHH program. Marketing for the BHH program may be prioritized to those homes:

- That were built prior to 1990;

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- That have above average utility heating fuel costs (natural gas, propane or oil), including in rural areas; and/or
- Are located within neighbourhoods that were identified as having high rates of energy poverty through the Canadian Urban Sustainability Practitioners (CUSP) Energy Poverty Mapping Tool.

The City may work with existing community initiatives or organizations interested in being aligned with the BHH program to achieve efficiencies in terms of program delivery (i.e. marketing and outreach support, education and training).

1.3. Stacking Home Energy Incentives

Homeowners who apply to the BHH program will be encouraged to consider existing incentive programs offered by Enbridge Gas Inc. and the Federal Government and other existing and future programs which may become available

To be eligible for the Enbridge Gas Inc. and Federal Government rebates (with some exceptions), homeowners are required to arrange a home energy assessment through the EnerGuide Rating System.

1.4. Optional Home Energy Assessment

The BHH Program does not require applicants to submit a home energy assessment; however, it is strongly encouraged so that participants can maximize government grants and incentives, as described in Section 1.3.

If participants decide to undertake a home energy assessment that provides a standard measure of a home's energy and greenhouse gas ("GHG") emissions performance, the participant shall provide to the City of Hamilton a copy of both the pre- and the post-retrofit energy assessment report that has been conducted and verified by a Registered Energy Advisory (the "REA"), or equivalent, as Registered by Natural Resources Canada ("NRCan").

1.5. Qualifying Retrofit Measures

Financing is designated for capital costs (not maintenance costs) with an expected useful life of ten (10) to twenty (20) years and for measures that are permanently affixed to a property. The average expected useful life of the retrofit measures implemented within a participating property shall not be less than the ten (10) to fifteen (15) year term of the loan extended to the homeowner.

The following are the current categories of eligible measures, which are subject to change:

- Optional Home Energy Assessments and Applicable Permits: Including pre- and post-retrofit energy assessments and building permits.
- Building Envelope: Including air-sealing/draft proofing, insulation (attic,

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basement and walls).

- Mechanical Systems: Air Source Heat Pumps (ASHP), including cold-climate air source heat pumps (ccASHP), ductless mini-splits, and high efficiency gas furnaces as a part of hybrid ASHP systems, and supporting smart thermostat/controller.
- Supporting Infrastructure: Including breaker panel upgrades and ductwork only when required to support installation of ASHP.

Ineligible retrofits include equipment or products not permanently affixed to the property, previously installed in another home and/or are deemed general maintenance.

By recommending categories of retrofit improvements and associated measures, the City makes no guarantees of the materials, performance, cost-effectiveness or any warranty of the measures supported by the BHH Program.

1.6. Completing the Retrofit through Contractor Engagement

The City of Hamilton will provide LIC financing to homeowners for eligible measures covered by the BHH Program that have been:

- Recommended or identified through the pre-retrofit energy assessment completed by a REA, if one was completed;
- Verified by the City or the assigned Program Administrator; and
- Installed by contractors hired by the homeowner after verification and approval from the City or the assigned Program Administrator.

Homeowners must provide to the City all documentation, including all quotes and all invoices, in order to receive the initial and final disbursements respectively.

The City will not procure contractors to perform home improvements in connection with this program. The homeowner will use the funds disbursed by the City to pay contractors directly. Where contractors require an upfront deposit prior to completing the retrofit, up to 30% of the total LIC financing may be released by the City prior to the contractor starting the work only after the proposed retrofit and renovation quotes have been approved by the City or Program Administrator and after the Property Owner Agreement has been signed by both parties and deemed final and binding, as described in Step 6.A.

The City is not responsible for the work quality of any contractors hired in connection with the BHH Program and assumes no liability for the works undertaken. All retrofit improvements and renovations must adhere to all applicable permitting requirements, codes, laws and by-laws.

The homeowner is responsible for ensuring that hired contractors are licensed,

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bonded and insured for the applicable work they will be undertaking. Any issues that may arise relating to the quality of workmanship or post-installation performance of retrofit measures must be dealt with between the homeowner and the contractor.

1.7. Better Homes Hamilton Program Coach

The BHH Program will include access to a Program Coach. The BHH Program Coach is not a REA but rather serves as a source of support to provide guidance to the homeowner throughout the BHH process, in order to improve overall satisfaction with program effectiveness. BHH applicants are solely responsible for the retrofit choices made, and the City does not take any responsibility for the advice provided to the applicant or any work potentially recommended by the BHH Program Coach.

1.8. BHH Program Application Process

The application process is set out below. City staff will periodically review this process to ensure effective program implementation and, where deemed appropriate, the City may make changes to this process, in its sole discretion.

Step 1: BHH Program Application

The property owner must apply online through the BHH website, which includes a self-directed pre-application screening checklist to determine eligibility for the BHH program. Program eligibility requirements include the following:

- Eligible building type
- Property address to confirm location is within the City of Hamilton;
- Property assessment roll number to confirm that all property tax payments are in good standing; and
- Signed attestation that all registered owner(s) consent to program participation.

If a homeowner has one or more outstanding mortgage(s) associated with the property, then the homeowner must inform via mail or email the mortgage lender(s) of its intention to participate in the BHH Program using the City's prescribed letter template form (copying the City). City must receive proof of delivery (e.g. copied on email to lender or received carbon copy of letter mailed to lender) as part of the applicant's funding request package.

Once the homeowner's application has been reviewed and accepted by the City, the City will provide the homeowner with a Notice to Proceed with obtaining an optional pre-retrofit energy assessment and energy efficiency retrofit quotes.

Step 2: Identifying Energy Retrofit Improvements

A. Home Energy Assessment Process (Optional)

If the homeowner decides to proceed with this option, the homeowner will complete the pre-retrofit home energy assessment in accordance with this Section and Section 1.4 - Home Energy Assessments and submit a copy of the REA's NRCan EnerGuide home assessment (Home Energy Assessment report with recommended retrofits) to the City.

The home energy assessment report must include:

- The current NRCan EnerGuide rating for the home, including the rated energy consumption in gigajoules per year (GJ/yr.) and GHG emissions in tonnes per year (GHG(T)/yr.);
- Recommended improvements that have been customized for the home based on existing conditions, which are projected to improve its NRCan EnerGuide rating, including a reduction in energy consumption and/or GHG emissions;
- EnerGuide Homeowner Information Sheet that summarizes the residential building's details, including envelope, mechanical systems, and heated floor area;
- Estimated useful life of the proposed improvement(s); and,
- Potential eligibility for utility existing rebates and incentives offered (e.g. Enbridge Gas, Hydro One, Alectra Utilities, and other applicable programs that may become available to Hamilton residents).

Applicants may wish to review the NRCan EnerGuide Renovation Upgrade Report and Homeowner Information Sheet with the BHH Program Coach provided by the City. This step may help homeowners choose which energy retrofit improvements to undertake based on estimated energy savings that may be realized after installing the recommended improvements, as well as the estimated useful life of the proposed improvements.

A. Homeowner-identified Energy Retrofit Improvements

If the homeowner chooses not to undertake an NRCan EnerGuide home energy efficiency assessment with a REA, the homeowner must identify and propose eligible retrofit measures to the City or Program Administrator. The City of Hamilton or Program Administrator must approve the eligible retrofit measures with a formal Notice to Proceed with Quotes, as described in Step 3.

Step 3: Obtaining Contractor Quotes

Upon approval of the application and after the City or the Program Administrator has issued the Notice to Proceed with Quotes, homeowners will then be responsible for obtaining contractor quotes. The homeowner must engage qualified and licensed, where applicable, contractors selected by the homeowner to implement any

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mechanical systems and “supporting infrastructure” retrofit measures, as well as a REA, if applicable. Work and materials installed by homeowners will not be eligible for the loan.

Using the Contractor Quote Template provided to homeowners by the BHH Program Coach, homeowners should contact contractors to obtain estimates. The BHH Program Coach will be available to provide assistance to homeowners, if necessary. Homeowners who completed a pre-retrofit home energy assessment should provide the contractor the NRCan Energuide Homeowner Information Sheet.

Homeowners will be required to submit at least one (1) contractor quote; however, it is strongly encouraged that all homeowners obtain three (3) contractor quotes. All quotes submitted to the City must, as outlined in the prescribed Contractor Quote Template, at minimum include:

- Estimated cost of the retrofits and Specification Sheets, if applicable, for inclusion in the Funding Request Package
- Quotes must be itemized by costs for all labour, parts and equipment, relevant permit fees and energy assessment fees, if applicable, applicable taxes, and include estimated useful life of the work;
- Registered HST Number;
- Proof of Liability Insurance that covers all employees;
- WSIB Certificate of Compliance; and
- Any and all applicable licenses and/or qualification for the prescribed work to be undertaken (e.g. municipal Heating, Cooling, Air Conditioning and Ventilation license; Electrical Contractor License from ESA; Sheet Metal Mechanic License number; G2 Gas Ticket, etc.)

Step 4: Funding Request Form

Within three (3) months of receiving the Notice to Proceed with Quotes, the applicant must submit a completed Funding Request Package that includes:

- Proof of delivery of prescribed Mortgage Lender Notification Letter;
- All copies of the contractor quotes containing the items set out in Step 3 above, including the Contractor Quote Table;
- If, applicable, all documentation from the pre-retrofit home energy assessment; and,
- The amount of contractor prepayment (as indicated in Section 1.6. - Completing the Retrofit through Contractor Engagement) being requested from the City.

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Following receipt of the Funding Request Package, the City or its Program Administrator, will:

- Confirm the eligibility of the works in accordance with the criteria set out in Section 1.5. - Qualifying Retrofit Measures;
- Review the work proposed in the Contractor Quote Table and verify the reasonableness of retrofit costs and labour costs by consulting manufacturer pricing and prevailing labour rates; and,
- Render a decision on the acceptability of the applicant's Funding Request Package.

Step 5: Property Owner Agreement (the "POA")

After the City of Hamilton or Program Administrator has confirmed acceptability of the Funding Request Package, the Program Administrator will prepare the Property Owner Agreement ("POA") for the homeowner(s) to review and sign, and the General Manager of Planning and Economic Development or his designate to sign.

Upon signing of the POA, the homeowner will commence with providing the City with (access to) utility usage and bills or other applicable fuel receipts for the time period commencing two calendar years prior to the date of signing of the POA and ending five (5) years thereafter, in order to assist staff calculating GHG emissions and energy savings.

Step 6: Completing Retrofit Measures and Funding Disbursement

A. Initial Funding Disbursement

Following execution by both parties and certification of the POA by the City Clerk as final and binding and verification that the property is free of construction liens and writs of execution, the City will provide the homeowner with the initial disbursement agreed upon and pursuant to the terms outlined in the POA. A maximum disbursement of 30% of the total amount approved by the City may be used by the homeowner to pay any upfront deposits required by the contractor.

Following the release of any upfront deposits, the homeowner shall begin work within three (3) months of receiving the funds from the City. Pursuant to the terms of the POA, the homeowner will be obligated to repay the initial disbursement to the City, should the homeowner not begin the retrofits within the time specified.

B. Project Completion Package

The agreed upon retrofits must be completed within six (months) upon signing the POA. The homeowner can request an extension, if required. The extension will be granted at the sole discretion by the City of Hamilton or Program Administrator.

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Within fourteen (14) days upon completion of the agreed upon retrofits, the applicant must prepare and submit the City's prescribed Project Completion Package, which includes:

- Details of the actual eligible energy retrofit measures implemented and actual costs incurred;
- All copies of contractor invoices (and receipts) for the approved Work(s) completed; and,
- If, applicable, all documentation from the post-retrofit home energy assessment.

C. Final Funding Disbursement

As detailed in the POA, the City will provide the final disbursement after:

- The homeowner has provided the City with (access to) utility usage and bills or other applicable fuel receipts for the time period commencing two calendar years prior to the date of signing of the POA.
- If applicable, the homeowner has provided the City with the post-retrofit home energy assessment documentation from the REA; and,
- The homeowner has submitted the Project Completion Package to the City's satisfaction following completion of the Work, for determination by the City, in accordance with the POA, of any Final Disbursement for which the Property qualifies.

Step 7: Local Improvement Charge Repayment

Following the City Treasurer's, Deputy Treasurer (or delegated authority) periodic certification of the local improvement roll (which occurs after the improvements on a given set of properties are complete and the final amounts of funding are confirmed), a by-law will be presented to City Council pursuant to Section 36.14 of O.Reg. 586/06 that imposes the special charges on the participating properties.

For each property included in the by-law, the Treasurer, Deputy Treasurer (or delegated authority) will then add to the City of Hamilton's tax account for that property each year that portion of the imposed special charge that is due in that year. These collective steps will provide priority lien status for the annual amount that the Treasurer, Deputy Treasurer (or delegated authority) adds to the tax account and will ensure that any subsequent property, who was not a party to the POA, is bound to pay that amount.

At any time, a homeowner can make a one-time payment of the total outstanding commuted value of the LIC charge. Failure to make payments is treated with the same remedy as uncollected property taxes, which may include penalties and interest charges. Unpaid LIC will be subject to the City's tax collection policy.

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1.9. Local Improvement Charge Disclosure

As stated in O.Reg 518/06, the special charge imposed on the homeowner's property constitutes a special lien that is binding on all future owners, even though future owners are not parties to the original POA. In addition to the notice that the City of Hamilton will be providing in accordance with the provisions of O.Reg. 586/06, the POA will require an assignment agreement when a property with an LIC loan is transferred. The City of Hamilton may also update the Tax Certificate to include the amount payable in the current year and outstanding amounts owing. The City maintains the option to post information on their website to communicate the special charge by-law.

1.10. Quality Control

As a means of additional oversight to confirm that the funded improvements have been completed as approved, the POA will indicate that the City reserves the right to have a City official or third-party contractor enter the property to inspect the completion of the work for up to five (5) years following completion. The homeowner is responsible for keeping original copies of contractor invoices and also photos of installed measures (particularly for measures that are difficult to inspect, such as insulation), and shall disclose this information to the City upon request.

1.11. Measurement and Verification

Pursuant to the POA, the homeowner must agree to provide the City with access to the property's utility usage data, or other fuel purchases as applicable, in order to monitor results and evaluate the program's effectiveness for a period of up to five (5) years after completion of the retrofit. The homeowner must also agree to participate in surveys and other follow-up activities to help the City evaluate the effectiveness and improve the program process and outcomes.