

# City of Kingston By-Law Number 2026-XXX

## ***By-Law to Amend City of Kingston By-Law Number 2021-23, A By-Law to Authorize the Undertaking of Energy Efficiency and Water Conservation Works on Private Residential Property as Local Improvements under the Better Homes Kingston Program (BHKP), as Amended***

### **Whereas:**

The Corporation of the City of Kingston (the “**City**”) is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

Subsection 5 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “**Municipal Act, 2001**”) provides that the powers of a municipality must be exercised by its Council.

Subsection 5 (3) of the *Municipal Act, 2001* provides that a municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise.

Part III of Ontario Regulation 586/06, Local Improvement Charges - Priority Lien Status, enacted under the *Municipal Act, 2001* (“**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.

Subsection 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.

On February 2, 2021, Council for the *City* (“**Council**”) enacted *City of Kingston By-Law Number 2021-23, “A By-Law to Authorize the Undertaking of Energy Efficiency and Water Conservation Works on Private Residential Property as Local Improvements under the Better Homes Kingston (BHK) Program”, as amended.*

*Council* considers it necessary and desirable for the public to further amend *City of Kingston By-Law Number 2021-23.*

**Therefore,** Council enacts:

## 1. Amendment

1.1 City of Kingston By-Law Number 2021-23, as amended, is further amended as follows:

- (a) The title of the by-law is renamed as *“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 Kingston Program (BHKP)”*;
- (b) Section 1 is amended by deleting the words “Manager, Business, Environment & Projects” and replacing them with the words “Manager, Growth & Development Services”; and
- (c) Schedule “A” is deleted in its entirety and replaced with Schedule “A” attached to this By-law.

## 2. Coming into Force

2.1 This by-law will come into force and take effect on the day it is passed.

1 <sup>st</sup> Reading	date
2 <sup>nd</sup> Reading	date
3 <sup>rd</sup> Reading	date
Passed	date

Janet Jaynes  
City Clerk

Bryan Paterson  
Mayor

## Schedule "A"

### Better Homes Kingston (BHK) Program

#### 1.0. Overview

- 1.1 The Better Homes Kingston Program ("**BHKP**") is designed to extend municipal financing to participating property owners for the installation of qualifying building envelope, thermal, power, and water improvements and related energy assessments (collectively, "**Improvements**"), 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 BHKP may be administered by the Corporation of the City of Kingston (the "**City**") alone, or in conjunction with a third-party program administrator to be selected at a later date.
- 1.2 This By-law does not exempt any person from complying with the requirements of other by-laws, regulations, licences, permits, authorities, or approvals in force and otherwise required by the City, Utilities Kingston, the Province of Ontario, or the Government of Canada.
- 1.3 This By-law applies only to Improvements installed through the BHKP.

#### 2.0. Program Eligibility

- 2.1 The following residential building types are eligible for the BHKP ("**Eligible Property(ies)**"): detached houses, semi-detached houses, row houses, and small residential apartment buildings that are not more than 3 storeys in height and 600m<sup>2</sup> in building area, as covered under Part 9 of the Ontario Building Code.
- 2.2 Registered owners of Eligible Properties within the geographic boundaries of the City of Kingston are eligible to participate in the BHKP.
- 2.3 All registered owner(s) of the Eligible Property must provide written consent to participate in the BHKP.
- 2.4 All projects submitted through the BHKP must be approved by the City's Manager of Climate Leadership or their designate (the "**Manager**").
- 2.5 The following conditions must be met for the Manager to approve projects for inclusion in the BHKP:
  - (a) the Eligible Property must have a property tax account with the City and all property taxes, utility bills and other payment obligations to the City must be in good standing;
  - (b) the project must demonstrate the potential to achieve effective energy

reductions (being a minimum 20% reduction in Greenhouse Gas Emissions or Energy Consumption) through a home energy assessment, or meet the requirements from a prescribed list of eligible upgrades defined by the BHKP administrators;

(c) the project must demonstrate that the average expected useful life of the Improvements is not less than the LIC financing term of the loan extended to the property owner(s) (being 5-20 years) and the Improvements must be permanently affixed to the Eligible Property; and

(d) any additional conditions imposed by the Manager from time to time to maintain the objectives of the BHKP.

### **3.0 Submission Requirements**

3.1 BHKP will utilize a version of the EnerGuide Rating System ("**ERS**") that provides a standard measure of a home's energy and greenhouse gas ("**GHG**") emissions performance. The ERS provides a standardized tool and process to assess home energy efficiency and can model energy savings projects in measurable performance improvement. The BHKP may also offer prescriptive requirements for Improvements that can be completed, which do not require the ERS, but may require other verification such as photos, receipts, and other evidence of completion.

When required, the property owner must have their pre- and post-retrofit home energy assessment verified by a Registered Energy Advisor ("**REA**"), or equivalent, as certified by Natural Resources Canada ("**NRCan**"). This may be achieved as an in-house energy audit or as a data-driven analysis that does not require an in-house visit, provided that it follows the ERS.

Upon completion of the pre-retrofit home energy assessment, a Property owner Information Sheet ("**HOIS**") and Renovation Upgrade Report ("**RUR**") will be provided to the property owner with the NRCan EnerGuide rating for the home and

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recommendations for Improvements to potentially increase that rating. When applicable, a copy of this HOIS and RUR must be provided to the City in order to access the LIC financing. The City may also require access to a minimum of 24 months of utility bills via the applicable fuel and power utility service providers and authorized by the property owner (12 months prior to the retrofit and 12 months following the retrofit), and up to five years thereafter, for performance verification.

After the retrofit is complete, a post-retrofit home energy assessment is performed by the REA and a report will be provided to the property owner with the updated EnerGuide rating and confirmation that the Improvements have been completed. When the Improvements have been completed, and if the EnerGuide rating has increased to the minimum thresholds as described in Section 2.5(b). - Program Eligibility, then any applicable rebates will be confirmed, and the City will issue the final disbursement of funds.

The cost of the home energy assessments is initially paid by the property owner, but may be eligible for a rebate if the property owner either:

- (a) participates in another utility or agency energy retrofit rebate program(s); or
- (b) achieves a minimum 20% reduction of GHG emissions, and/or equivalent reduction in energy consumption, as verified by a post-retrofit home energy assessment. Any potential rebate under this subsection (b) is expressly subject to the City's approved funding at the time of approval of individual applications.

3.2 All BHKP applicants must submit a funding request form to the Manager, together with the pre-retrofit HOIS when required, or other information required pursuant to subsection 2.5(b) above. The funding request form must include the following:

- (e) a description of the eligible Improvements that the property owner intends to install at the Eligible Property;
- (f) a copy of the contractor(s) quote(s) containing the estimated cost of the Improvements, which quote(s) must separately itemize costs for all labour, parts and equipment, relevant permit fees, if applicable, and applicable taxes; and
- (g) the amount of the contractor prepayment, being requested from the City upon signing the POA (as defined below).

#### **4.0 Qualifying Improvements**

4.1 The following is a non-exhaustive list of the categories of eligible Improvements under the BHKP. This list may be updated or amended periodically by the Manager:

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- (a) **Thermal Envelope Upgrades:** attic, walls, foundation, and basement insulation and associated requirements such as attic ventilation, foundation drainage and waterproofing; air barriers; window, skylights and exterior door replacements; tubular daylighting devices and exterior window shadings or films; air-sealing and weather stripping.
  - (b) **Mechanical Systems Upgrades (space heating, cooling and ventilation):** thermostats and controllers, energy or heat recovery ventilators, air source heat pumps, ground source heat pumps, biomass wood-pellet heaters, heat distribution systems, duct sealing, fans, associated electrical equipment as required.
  - (c) **Mechanical Systems Upgrades (water heating):** high-efficiency water heaters (i.e. heat pump, electric water tanks, etc.), drain water heat recovery systems, solar hot water systems.
  - (d) **Renewable Energy, Energy Storage and EV Chargers:** solar photovoltaic systems, electric vehicle charging stations (Level 2), battery storage devices, associated electrical and load management equipment, including but not limited to, electric thermal storage.
  - (e) **Health and Safety Measures:** electrical wiring and panel upgrades that are required undertakings to permit energy improvements.
  - (f) **Climate Adaptation Improvements:** storm damage prevention measures (e.g. rafter ties), back-flow prevention valves, sump pumps and basement waterproofing, exterior landscaping to redirect water away from the home, and/or increase permeability, eavestrough/downspout repairs/extensions.
  - (g) **Water Conservation Measures.**
  - (h) **Other:** permanently affixed lighting; lighting control; new energy efficient (certified) products will be considered as additional eligible technologies.
- 4.2 Improvements that are not eligible under the BHKP include equipment or products that are not permanently affixed to the property, that were previously installed in another property, and that are deemed by the Manager to be general maintenance measures.

## 5.0 Financing Limit

- 5.1 The City will provide LIC financing for approved projects under the BHKP up to an amount that is the lesser of: (a) 20% of the current assessment value of the property (as determined by the Municipal Property Assessment Corporation); and (b) \$50,000.
- 5.2 The City's availability of funds for the BHKP will be established by City Council. The funds available under the BHKP will be allocated to approved projects on a "first come, first served" basis. Individual project funding will be confirmed through an approved Property Owner Agreement ("**POA**") executed by the property owner(s) and the City.

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5.3 LIC financing provided by the City will be net of any BHKP rebates received by the applicant, with the exception of the home energy assessment rebates when required.

**6.0 No City Liability**

6.1 The City makes no guarantees or warranties with respect to the materials, performance, cost-effectiveness, or suitability of the Improvements supported by the BHKP.

6.2 The City is not responsible for the work quality of any contractors hired in connection with the BHKP and assumes no liability for the works undertaken. All Improvements must adhere to applicable permitting requirements, codes, laws and by-laws. The property owner is responsible for ensuring that hired contractors are licensed, bonded and insured. Any issues that may arise relating to the quality of workmanship or post-installation performance of Improvements must be dealt with between the property owner and the contractor.

**7.0 LIC Repayment**

7.1 The LIC shall become due and payable from the property owner(s) effective from the date of disbursement of the loan funds and will incur interest charges from this date consistent with the POA.

7.2 A property owner may make advance payments of the LIC, including a one-time payment of the total outstanding amount of the LIC, at any time. Failure to make payments of the LIC within the required timeframe is treated in the same manner as uncollected property taxes and may be subject to the imposition of penalty and interest charges.

7.3 The City's standard interest rate imposed on LICs under the BHKP may be amended from time to time based on the City's cost of financing and administration. The applicable interest rate charged to a property owner for an approved project will be fixed upon execution of the POA.

7.4 Following the City Treasurer's periodic certification of the local improvement roll, a by-law will be presented to City Council pursuant to Section 36.14 of the Regulation that imposes the special charges on the participating properties, in the form attached as Appendix A (the "**Special Charge By-Law**"). The form of Special Charge By-Law is subject to change from time to time, in the City's sole discretion.

7.5 For each property included in the Special Charge By-Law, the City's Treasurer will enter the amount of each annual payment of the LIC in the local improvement roll.

**8.0 LIC Disclosure**

8.1 As stated in the Regulation, the special charge imposed on the property constitutes a special lien that is binding on all future owners. As such, in addition to any notice requirements contained in the Regulation, the City will take the following steps to provide notice of the LIC to interested parties:

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- (a) posting on the City's website notice of the Special Charge By-Law; and
- (b) updating the property tax certificate to include the full LIC amount, the amount payable in the current year, the start and end year, and a note referencing the Special Charge By-Law.

These steps will be completed as a courtesy only, and the City may, in its sole discretion, elect to discontinue both or either of such steps, without notice.

**9.0. POA**

- 9.1 Property owners will be required to execute a POA with the City for all eligible BHKP projects. The POA must be signed by all registered property owners.
- 9.2 The POA must include:
  - (a) the municipal address of the Eligible Property;
  - (b) the property assessment roll number of the Eligible Property to confirm that all property tax payments are in good standing;
  - (c) the value of the LIC financing being provided by the City and all loan terms;
  - (d) a description of the Improvements and the name of the contractor that will perform the Improvements;
  - (e) a description of the property owner's responsibilities and obligations with respect to the project and the LIC financing, including the requirement to obtain a post-retrofit home energy assessment;
  - (f) the property owner(s)' acknowledgement of and agreement with all City and BHKP disclaimers.
- 9.3 The Manager may amend the form of POA from time to time in consultation with the City Solicitor.
- 9.4 Following execution of the POA, the City will provide the property owner with the initial financing disbursement specified in the POA, up to a maximum of 75% of the estimated cost of the work, which will be used by the property owner to pay any upfront deposits required by the contractor. Pursuant to the terms of the POA, the property owner will be obligated to repay the initial disbursement to the City if the property owner does not complete the Improvements within the time specified in the POA.

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- 9.5 As detailed in the POA, the City will provide the final financing disbursement specified in the POA after the property owner has submitted a Project Completion Report, including a copy of the final invoice(s) from the contractor and a post-retrofit home energy assessment report from the REA that:
- (a) confirms that the approved Improvements have been installed and are in good operational order;
  - (b) provides a new NRCan EnerGuide energy (GJ/yr.) and GHG (Tonnes/yr.) rating of the property, and such rating is greater than the NRCan EnerGuide rating noted on the pre-retrofit home energy assessment report from the REA; and
  - (c) indicates the actual costs and useful life for the Improvements, as evidenced by receipts and invoices, where applicable.

**10.0 Access to Utilities Kingston and Third-Party Rebates**

- 10.1 The City encourages BHKP applicants to review third-party energy savings programs offered by utilities and agencies such as Enbridge Gas, Utilities Kingston, Hydro One and the IESO's Save On Energy program. Energy efficiency measures that are eligible under the BHKP may also be eligible for rebates from utilities. Financing advanced by the City will be net of any third-party rebates or other rebates received by the applicant.
- 10.2 Rebates may be offered exclusively to Utilities Kingston customers through the BHKP for designated demand-side management measures. An applicant can decide whether they will apply for Utilities Kingston rebates only, or combined financing and rebates. Those applicants accessing only Utilities Kingston rebates without financing will be required to submit a valid funding request form, and project completion report (as outlined in Section 9.0), including photographs of the before and after conditions of the eligible Improvements installed for verification.
- 10.3 Where applicants who are accessing financing through the BHKP qualify for and receive rebates offered through Utilities Kingston or another utility or agency, the total combined rebates from all sources cannot exceed a maximum of 50% of the total cost of the Improvements being completed, and the BHKP Rebates will be adjusted accordingly. Rebates offered through BHKP cannot exceed 30% of the total cost of the Improvements being completed and will be adjusted accordingly. Rebates for the cost of the required home energy assessment are not counted towards these limits.

*By-Law to Amend By-Law 2021-23***By-Law Number XXXX-XX****Special Charge By-Law****A By-Law to Authorize the Imposition of a Special Charge under the Better Homes Kingston Program in Accordance with Ontario Regulation 586/06 (Address) (“Benefitting Property”)****Passed: XXXX**

**Whereas** at its meeting on February 2, 2021, Kingston City Council enacted By-Law 2021-23, *A By-Law to Authorize the Undertaking of Energy Efficiency and Water Conservation Works on Private Residential Property as Local Improvements under the Better Homes Kingston (BHK) Program*, as amended, in accordance with 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”); and

**Whereas** the owner(s) of the Benefitting Property and the City of Kingston (the “City”) have entered into a Property Owner Agreement (the “POA”) pursuant to Section 36.2 of O. Reg. 586/06 for the City to undertake work as a local improvement (the “Work”) on the Benefitting Property and to raise the cost of the Work (the “Cost”) by imposing a special charge on the Benefitting Property; and

**Whereas** the City Clerk has certified the POA pursuant to Section 36.4 of O. Reg. 586/06; and

**Whereas** the Work has been completed; and

**Whereas** a local improvement roll was prepared in accordance with Section 36.10 of O. Reg. 586/06, setting out the Cost, the proposed special charges to be imposed on the Benefitting Property, when the special charges are to be paid, and the lifetime of the Work; and

**Whereas** the City has given notice of the proposed local improvement roll to the owner(s) of the Benefitting Property pursuant to Section 36.11 of O. Reg. 586/06; and

**Whereas** the City Treasurer has certified the proposed local improvement roll in accordance with Section 36.11(2) of O. Reg. 586/06; and

**Whereas** Section 36.14 of O. Reg. 586/06 provides that after the Treasurer has certified the local improvement roll, the City shall by by-law provide that the amount specially charged on the lot set out in the roll shall be sufficient to raise the lot’s share of the cost by a number of equal annual payments and that a special charge shall be imposed in each year on the lot equal to the amount of the payment payable in that year;

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**Therefore be it resolved that** the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. The provisions of Section 36.14 of O. Reg. 586/06 apply to the Benefitting Property as a result of the completion of the Work pursuant to the POA.
2. The amounts specially charged on the lot as set out in the certified local improvement roll attached as Schedule "A" to this By-Law (the "Special Charge") is sufficient to raise the lot's share of the Cost and shall be imposed on and collected by annually adding the annual amount payable as set out in Schedule "A" to this By-Law (the "Annual Payments") to the tax roll of the lot.
3. The Annual Payments as set out in certified local improvement roll attached as Schedule "A" do not extend beyond the lifetime of the Work.
4. The amount of each payment made in respect of the Special Charge shall be entered in the local improvement roll by the Treasurer.
5. This By-Law shall come into force and take effect on the date of its passing and shall be deemed repealed on the date on which the Treasurer certifies that the Special Charge has been paid in full.

Given First and Second Readings: Meeting date (Month day, year)

Given Third Reading and Passed: Meeting date (Month day, year)

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**Janet Jaynes City Clerk**

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**Bryan Paterson Mayor**

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Schedule A

**City of Kingston – Better Homes Kingston**

Local Improvement Charges Added to Taxes

BHK Number	Roll Number	Site Address	Property Owner(s)
BHK-XXXX			

Local Improvement Charge								
Cost of Work	Funding Amount	Interest Charge	Admin Charge	Special Charge (Total Amount owing)	When Special Charge to Be Paid	Lifetime of the Work	Annual Payment	Detail Description
		X%	\$450		Within XX year(s) from the first Payment Date	XX Years		Better Homes Kingston Program - Local Improvement Charge added to tax roll.