The Corporation of the City of Peterborough

By-Law Number 14-015

Being a By-law to adopt the Municipal Brownfields Rehabilitation Grant Program to add to the Central Area Community Improvement Plan

Whereas By-law No. 11-117, being “A By-law to Designate the Central Area Community Improvement Project Area” pursuant to Section 28(2) of the Planning Act, was passed by Council on the 12th day of September, 2011;

And Whereas By-law No.11-115, being “A By-law to adopt a Central Area Community Improvement Plan”, was passed by Council on the 12th day of September, 2011;

And Whereas a public meeting was held on January 20, 2014 with respect to the Municipal Brownfields Rehabilitation Grant Program attached to this by-law and marked as Schedule “A”;

Now Therefore, the Council of the Corporation of the City of Peterborough, pursuant to Section 28 of the Planning Act, R.S.O. 1990, enacts as follows:

1. That the Municipal Brownfields Rehabilitation Grant Program consisting of the attached explanatory text and appendices, is hereby adopted. The Central Area Community Improvement Plan is amended with the addition of this Program. The Municipal Brownfields Rehabilitation Grant Program is attached as Schedule “A”.

2. That this by-law have effect immediately upon final passing.

By-law read a first, second and third time this 3rd day of February, 2014.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk

Repealed by 17-066
Municipal Brownfields Rehabilitation Grant Program

a) Background

The ‘Municipal Brownfields Rehabilitation Grant Program’ (MBRGP) encourages the remediation, rehabilitation and adaptive re-use of Brownfield sites and structures. The City will grant the equivalent of the tax increase back to the applicant to cover eligible costs associated with the cleanup. This grant may continue on an annual basis until the eligible costs are recovered. This program benefits the City with increased private investment, increased tax assessment, adaptive re-use of existing properties and structures, providing overall improvement of the Central Area.

The legislative authority for the Municipal Brownfield Rehabilitation Grant Program is established under Section 28 of the Planning Act. Subsection 7 indicates that a municipality can make grants or loans to pay for whole or part of the eligible costs associated with the Community Improvement Plan. Subsection 7.1 outlines what are considered eligible costs. This includes environmental site assessment and environmental remediation for rehabilitation of lands and buildings.

This program is set up similarly to the ‘Brownfields Tax Assistance Program’ (BTAP). However, eligible sites under BTAP are only those that require a Record of Site Condition as per Provincial Law. The proposed MBRGP extends benefits of receiving assistance for eligible rehabilitation costs to those sites and structures not necessarily covered by BTAP (such as the safe removal of asbestos from a structure). The MBGRP enables proposed redevelopment where a RSC is not required by Provincial Law.

The same rehabilitation costs cannot be covered by multiple community improvement plan incentive programs.

Once the total amount of grants received from the Brownfields Rehabilitation Grant Program equal the agreed upon eligible rehabilitation costs outlined in the agreement between the Applicant and the City, the applicant is no longer eligible for grants under MBRGP.

b) Program Assistance

This program provides grants to property owners who remediate or rehabilitate contaminated properties or structures in the Central Area Target Area. The amount of the grant is a function of the increase in the municipal taxes due to increased assessment of the property and shall not exceed the eligible rehabilitation costs. The property owner would be responsible for the full payment of taxes, after which the City would provide the grant.

The total value of the rehabilitation work, plus the amount of the municipal taxes paid prior to and after the redevelopment, would have to be known. “Municipal taxes” under the program refers to only the general portion of municipal taxes of the total taxes paid and would not include any other taxes or amounts, including but not limited to, education taxes and all servicing charges and general tax rate increases.

The program length is a function of the costs associated with rehabilitation and the reassessed municipal taxes. These are established at the time of drafting the agreement. In the Central Area Target Area, the grant amount for this program shall not exceed 100% of the increase in the municipal portion of the taxes in any given year and total grant provided shall not exceed the eligible rehabilitation costs.
i) An “eligible property” for the Municipal Brownfields Rehabilitation Grant Program is one that is not eligible under the BTAP and requires remediation or rehabilitation to enable redevelopment when a RSC is not required by provincial law. This may include land or structures within the property.

When benefits from the Municipal Brownfields Rehabilitation Grant Program end, the Central Area Revitalization Grant Program (CARP) may begin, provided that reassessment of the property has taken place, and the property owner has paid the property taxes in full for the year in which the grant is to be provided.

ii) A property owner may register their intent to participate in the grant program by filing an application at the time of Building Permit application. For the purposes of drafting an agreement between the applicant and the City, the amount of municipal taxes paid prior to works would be required. Upon completion of the works, the municipal taxes to be paid as a result of the reassessment by the Municipal Property Assessment Corporation (MPAC) would be calculated. The municipal tax difference between pre and post rehabilitation work would be the portion eligible for a grant under this program.

The Building Permit application is the “trigger” for establishing participation in the program. At this time, the approximate value of the rehabilitation work to be undertaken can be determined. As indicated above, the total value of the grant will not exceed the eligible rehabilitation costs. At the Building Permit stage, the construction value of the project is known, since this is what establishes the cost of the permit. In some cases, an audit may be required to confirm the construction value.

iii) This program would not exempt property owners from an increase in municipal taxes due to a general tax rate increase or in a change in assessment for any other reason after the property has been improved, except by reason of an assessment appeal. This program does not cover education property tax assistance.

iv) Applications will be processed and approved on a first come, first serve basis, subject to availability of funding as approved by Council, with a higher priority being placed on applications for sites where planning approvals are not required or sites where planning applications have been submitted. Review and evaluation of an application and supporting materials against program requirements will be completed by City staff, which will then make a recommendation to City Council or council’s designate.

c) Eligibility Requirements

i) Any property owner within the target area must apply in writing at the time of making an application(s) for Building Permit approval.

ii) The subject property shall not be in a position of property tax arrears.

iii) Outstanding Work Orders from the City’s Fire Services or Building Division and requests to comply shall be addressed prior to grant approval.

iv) Remediation or rehabilitation work is needed at the subject property prior to successful adaptive re-use of Brownfield sites and structures.
d) Eligible Rehabilitation Costs

v) Cannot be costs covered by the ‘Brownfields Tax Assistance Program’; the same eligible costs cannot be doubly counted for in a subsequent application of the Central Area Revitalization Tax Increment Grant.

vi) Environmental remediation; including remedial action plans, risk management plans and implementation costs.

vii) Removal of hazardous materials from a site or structure, waste transfer to landfill and tipping fees for contaminated materials.

viii) Fill and grading to replace contaminated soils.

ix) Partial demolition.
APPENDIX ___

Municipal Brownfields Rehabilitation Grant Program
Administration

Step 1 - Application Submission

Applicants will be required to have a pre-application consultation meeting with staff in order to determine program eligibility, proposed scope of work, eligibility with other CIP incentive programs and project timing.

Staff will perform an initial site visit(s) and inspection(s) of the building/property (if necessary).

Before accepting an application, staff will screen the proposal and application. If the application is not within the Community Improvement Project Area, or the application clearly does not meet the program eligibility criteria, the application will not be accepted. If City staff determines that the application is not acceptable for one or more of the above noted reasons, the application will be returned to the applicant with a letter explaining the reason for not accepting the application.

Acceptance of the application by the City in no way implies program approval.

Applications submitted to the City shall be accompanied by a Phase II ESA and/or Remedial Work Plan and/or Risk Assessment prepared that identifies and details estimated eligible costs and a work plan and budget for the proposed remediation. It needs to be demonstrated that environmental rehabilitation of lands or buildings is required to enable redevelopment of the site. The City may also require submission of a Business Plan for the proposed redevelopment project.

Step 2 - Application Review and Evaluation

Applications and supporting materials and documentation are reviewed by a City staff committee against program requirements. City staff will determine the eligible works and costs.

City staff will utilize the actual pre-project City property taxes and estimated post-project assessed value and applicable tax rates to calculate the estimated post-project property taxes, increase in City property taxes, and the estimated annual and total grant amount to be provided.

A recommendation report will be prepared by City staff. If this report recommends approval of the application, a grant agreement satisfactory to the City Solicitor and City Treasurer will also be prepared. This agreement will contain conditions to ensure that the project is commenced and completed in a timely fashion. This agreement will be forwarded to the applicant to be dated and signed. Once the signed agreement has been returned to the City, the municipal approval process can commence.

Step 3 - Application Approval

The recommendation report along with the grant agreement (if report recommends approval) is forwarded to Council or Council’s designate for consideration. If Council or Council’s designate approves the application and grant agreement, the agreement is executed (signed and dated) by City officials and a copy is provided to the applicant.

Step 4 - Payment

Prior to payment of the grant, the applicant must provide the City with:

a) photographic evidence of the completed project satisfactory to the City;
b) other documentation proving completion of the project, e.g. engineer’s report (if required);

c) all final reports and documentation as required.

City staff will conduct a final building/site inspection (as necessary) to ensure that the project has been completed. Once the project is complete, an occupancy permit has been issued, and the property has been revaluated by the Municipal Property Assessment Corporation, the property owner will be sent a new tax bill. After the property owner has paid in full the new property taxes for one year, the City will check to ensure that:

a) the applicant has not filed any assessment appeals; and

b) all program and grant agreement requirements have been met.

c) all work has been completed in accordance with the grant application and agreement.

If all program and grant agreement requirements have been met to the City’s satisfaction, then the City will calculate the actual tax increment and grant payment. The City will then issue payment of the grant in the form of a cheque in the amount specified as per the calculation of the actual grant payment.

City staff will monitor the project, periodically checking that the project is in compliance with all program and grant agreement requirements. City staff will take appropriate remedies as specified in the grant agreement if the applicant defaults on the agreement.
Figure ____: Municipal Brownfield Rehabilitation Grant Program Administration

<table>
<thead>
<tr>
<th>Step 1 Application Submission</th>
<th>Step 2 Application Review and Evaluation</th>
<th>Step 3 Application Approval</th>
<th>Step 4 Payment</th>
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</thead>
<tbody>
<tr>
<td>1) Pre-application meeting between City staff and applicant.</td>
<td>6) Staff checks application to ensure conformity with all program eligibility requirements.</td>
<td>11) A recommendation on the application and the agreement (dated and signed by the applicant) are forwarded to Council (or Council’s designate) for consideration.</td>
<td>13) Applicant provides the City with proof of completion of project, including:</td>
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<td>2) Staff inspects building/site (if necessary).</td>
<td>7) Staff review and evaluate application and supporting documentation.</td>
<td>8) Staff calculates an estimated maximum amount of municipal property tax assistance.</td>
<td>a) photographic evidence of the completed project satisfactory to the City;</td>
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<td>3) If proposal is eligible for funding, applicant is provided with:</td>
<td>9) Staff prepare a recommendation report and an agreement</td>
<td></td>
<td>b) actual cost of project;</td>
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<tr>
<td>a) Program Guide;</td>
<td></td>
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<td>c) other documentation proving completion of the project, e.g. engineer’s report (if required);</td>
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<tr>
<td>b) Application Form;</td>
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<td>d) all final reports and documentation as required.</td>
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<td>4) Applicant submits application including all required supporting documentation.</td>
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<td>12) If Council or Council’s designate approves the grant application and agreement, the agreement is executed by the appropriate City officials and a copy is provided to the applicant.</td>
<td>- Staff conduct building/site inspection (if necessary).</td>
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<td>5) Application fee is collected (if applicable).</td>
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<td>- Staff review all final reports and documentation submitted for conformity with program and grant agreement requirements.</td>
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<td></td>
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<td>- After property revaluation by MPAC and once property taxes have been paid in full for one year, staff check to ensure applicant has not filed any assessment appeals and all program and grant agreement requirements have been met.</td>
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<td></td>
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<td>- Staff calculates actual grant payment.</td>
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<td>- Payment of approved grant is made to applicant or assignee.</td>
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<td></td>
<td>- Each year, grant payment is recalculated and made to applicant or assignee after City checks to ensure all program and grant agreement requirements have been met.</td>
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<td></td>
<td>- Project is monitored to ensure all program and grant agreement requirements continue to be met.</td>
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