



Downtown Buchanan Restaurant Incentive Program

Program Purpose

The number one theme from a City of Buchanan resident survey conducted in February of 2021 and answered by 481 respondents identified a yearning by residents for more downtown dining options.

The City of Buchanan Downtown Restaurant Incentive Program is designed to incentivize prospective and existing food-related businesses to create jobs, attract new business, drive economic growth as well as to create a special downtown dining experience in Buchanan for residents and visitors alike. Forgivable loans are provided to property owners or commercial tenants in recognition of the positive impact that business can have on quality of life, cultural experience, and economic vitality of downtown Buchanan. The primary purpose of this program is to implement new restaurants in the downtown district. However, this program may also be available to existing businesses who make significant added value improvements to the dining experience and/or applicants outside of the Central Business C-3 in cases where the applicant can show that eligible improvements provide significant added value investment that positively impacts the community.

Funding for qualified applicants will be considered on a case-by-case basis and only as funding is available. Eligible projects will be approved by the City Commission.

Eligible Properties

To be eligible for a Downtown Restaurant Forgivable loan, an applicant and building shall meet all of the following criteria:

- 1) Eligible businesses are food-related ventures such as sit-down restaurants, bakeries, and cafes.
- 2) A building must be used in whole or in part for commercial purposes and located within the Central Business District C-3 or as otherwise authorized by the City Commission.
- 3) Property, building and applicant shall not be delinquent in property taxes or in default with the city on any loan or city related incentive program.
- 4) Properties and buildings with existing code violations or deficiencies must include their remedy as part of the proposed improvements.

- 5) Property required to be free of any tax liens and mechanic's liens and provide evidence that payments on any loans secured by the building are current.
- 6) Eligible properties can submit applications for improvement costs incurred as of January 1, 2021 (or such other date as may be approved by the City Commission).
- 7) Restaurant must be open for business before funding is appropriated by City Commission.
- 8) City Commission may make funding conditional upon minimum hours of operation.
- 9) Incentives are limited to businesses that have no more than 3 locations in the State of Michigan.

What Loans Are Available?

The maximum amount of the forgivable loan for a specific property will be set forth in a Downtown Restaurant Incentive Program Agreement between the Commission and the property owner or tenant. If costs exceed the original estimates, the property owner or tenant shall be solely responsible for the payment of the full amount of the excess. The Commission cannot reimburse more than the total amount specified in the Agreement.

Forgivable loans are subject to Federal and State taxes, and are reported to the Internal Revenue Service on Form 1099. You are required to provide your taxpayer ID number or social security number as part of the Restaurant Incentive Agreement. Property owners and tenants should consult their tax advisor for tax liability information.

Property owners or commercial tenants who install at least \$1,000 of improvements are eligible to receive a forgivable loan of 60 percent of the cost of construction of restaurant operation related improvements, including 100% of architectural fees, totaling up to \$10,000 per building for construction and architectural fees combined.

The amount of any forgivable loan for architectural services shall be limited to \$5,000 not to exceed 12% of the value of work to be performed per building, whichever is less. Where architectural services are required, the owner or tenant should retain an architect to prepare a conceptual design and cost estimate for work proposed. If the project is approved by the commission, the architect may provide bidding and construction plans and documents, as well as construction supervision. Only those architectural services directly related to the approved restaurant improvements will be reimbursed.

Eligible Improvements

- Equipment (such as hood exhaust systems, fire suppression, grease interceptors, kitchen, cooking, and dishwashing equipment)
- Interior designs and improvements related to restaurant operation including counter systems, sinks, seating, furniture, fixtures, drywall, painting, flooring, lighting)
- Electrical, plumbing or HVAC related to restaurant operations

The following items are not eligible for forgivable loans under the Downtown Restaurant Incentive Program:

- Façade improvements
- Building Permit fees and related costs
- Extermination of insects, rodents, vermin, and other pests
- Sidewalks – replacement or private sidewalks
- Title reports and legal fees
- Acquisition of land or buildings
- Elevators – repair or installation
- Refinancing existing debt
- Sweat equity
- Working capital for businesses
- Resurfacing of parking lots
- Landscaping

Improvements not specifically listed as eligible or ineligible are subject to review as to eligibility and approval or disapproval by the Community Development Department.

The Community Development Director will consider the appropriateness of proposed improvements.

Approval of Restaurant Incentive Program Agreement

Businesses that have not received a Downtown Restaurant Incentive Program forgivable loan in the past will have first consideration. After all first time users are processed, the remaining applications will be considered in the order in which they were received. In the event that the total amount of the potential forgivable loans exceeds the amount budgeted for the program for that fiscal year, the applications which cannot be approved due to budget limitations will be carried over for consideration during the following fiscal year. Not more than one Downtown Restaurant Incentive Agreement shall be approved for a building in any fiscal year, and a Downtown Restaurant Incentive Agreement shall not be approved if a Downtown Restaurant Incentive grant was made for the same portion of the building within the previous five years. Maximum forgivable loan funding per building is \$10,000.

Commencement of Work

After the Restaurant Incentive Agreement is approved by the City Commission, applicants may obtain a building permit and begin the work. **DO NOT START BEFORE – APPLICANTS WILL NOT BE GUARANTEED TO BE REIMBURSED FOR WORK DONE PRIOR TO CITY COMMISSION APPROVAL OF THE DOWNTOWN RESTAURANT INCENTIVE AGREEMENT.**

Completion of Work

All improvements shall be completed and requests for reimbursement submitted within 180 calendar days after the City Commission's approval of Downtown Restaurant Incentive Agreement unless otherwise authorized by the Commission for a maximum of a one (1) year extension. It shall be the applicant's sole responsibility to make sure that all deadlines are met. All requests for extension must be submitted in writing to the Community Development Director prior to the expiration of the initial deadline to complete the work and submit requests for reimbursement. In the event that an applicant fails to comply with these deadlines or otherwise request an extension from the City, the City may terminate its obligation to reimburse the applicant.

Reimbursement Payments

Upon completion of the work, the owner or tenant shall submit copies of all architect's invoices, contractor's statements, lien waivers and invoices to the Community Development/Executive Director, as evidence that the owner or tenant has paid the architect and contractor(s). You should use the forms provided by the Community Development Department. Payment will be authorized upon completion of all work items as originally approved and receipt of all of the required documents.

The Community Development Director may authorize reimbursement to be made in two payments, if all of the following conditions are present: 1) The first partial payment may be made upon completion of work representing at least fifty percent (50%) of the amount specified in the Restaurant Incentive Program Agreement; 2) The architect's invoices, contractor's statements, invoices, notarized final lien waivers and proof of payment for the completed work have been submitted; 3) The remaining work is expected to be delayed for thirty days or more following completion of the initial work due to weather, availability of materials, or other circumstances beyond the control of the owner or tenant.

Reimbursement for architectural services will be made at the same time reimbursement is provided for improvements, and only if a Restaurant Incentive Agreement has been approved by the City Commission. Architectural services may be reimbursed, at the sole discretion of the Commission, as follows:

Concept Plans and cost estimates prepared before approval of a Restaurant Incentive Program Agreement.

Architectural construction drawings and specifications for the improvement to the extent required by the Buchanan Building Code, following Commission approval of a Restaurant Incentive Program Agreement.

Construction supervision conducted after Commission approval of the Restaurant Incentive Program Agreement.

Major changes or elimination of improvements must be approved by the Community Development Department. Minor changes must be approved by the Community Development/Executive Director.

Alterations

The property owner and tenant shall be responsible for maintaining the restaurant improvements without alteration for three (3) years unless approved by the Community Development Director. A restrictive covenant limiting alterations may be required by the City Commission at the time of approval of the Restaurant Incentive Program Agreement.

DOWNTOWN RESTAURANT INCENTIVE PROGRAM – STEP-BY-STEP PROCESS

1. Review the Program Description and contact the Community Development Department to see if the improvements you are considering are eligible.
2. Define the scope of your proposed improvements. This will probably involve consulting with an architect or other appropriate design professional (for projects that do not need an architect, consult with a contractor).
3. Complete this application including appropriate plans and description of work to be done.
4. Submit a restaurant incentive program application to the Buchanan City Hall, Community Development Director, 302 N. Redbud Trail, Buchanan, MI 49107
5. If necessary, revise plans and return to the Community Development Department for second review.
6. Submit final revised plans, estimates, proof of Zoning Approval and signed Restaurant Incentive Program Agreement to Community Development Department Office.
7. Community Development Director will approve or disapprove content of Restaurant Incentive Program Agreement.
8. Application and grant agreement are forwarded to the City Commission for their review and approval.
9. Apply for a building permit or improvement location permit through the Building Department Office.
10. Pick up permit at Building Department Office when notified.
11. Construct per approved plans and call Building Department Office to schedule inspections as required.
12. Finish Construction.
13. Call the Building Department Office for final inspection.
14. Request reimbursement: Submit Invoices, orders, Treasurer's Form (to show compliance with property tax), Lien Waivers, etc., to Planning Department
15. Receive payment from Community Development Department for eligible project costs based on the restaurant incentive agreement.

BUCHANAN RESTAURANT INCENTIVE PROGRAM AGREEMENT

Application Form

1. Applicant Information

NAME: _____

ADDRESS OF PROPERTY TO BE IMPROVED:

NAME OF BUSINESS: _____

TAX ID#/SOCIAL SECURITY #: _____

HOME ADDRESS: _____

BUSINESS PHONE: _____ HOME PHONE: _____

FAX: _____ EMAIL: _____

2. Project Information

BUILDING LOCATION: _____

BUSINESS(ES) LOCATED IN BUILDING:

BUILDING AGE: _____ BUILDING LOCATED IN CENTRAL BUSINESS DISTRICT? _____

BUILDING ZONED AS: _____ PIN NUMBER: _____

OWNER OF RECORD: _____

IF LEASED: Lease Expires _____ Renewal Term _____

3. Project Description

Describe in detail the proposed scope of work including design firm and/or contractor(s) selected. Use separate sheet(s) if necessary.

Anticipated Construction

Start Date: _____ Completion Date: _____ Total Project Cost: _____

4. Mortgage Information

Is there a current Mortgage on the property: YES _____ NO _____

If YES, Holder of Mortgage

Date of Mortgage: _____

Original Amount: _____ Current Balance: _____

Are there any other loans, liens, deed restrictions on the property:

YES _____ NO _____

If YES, please list:

Provide evidence that loans secured by the building are current.

5. Building Information

Will project result in a change of use for the building? YES _____ NO _____

Uses of the building after completion of the façade project:

1st Floor:

2nd Floor:

3rd Floor:

Other:

6. Other Required Documentation

- a. Proof that all property taxes are paid and current
- b. Project budget
- c. Photographs of proposed project site

I/We certify that all information set forth in this application is a true representation of the facts pertaining to the subject property for the purpose of obtaining funding under the Restaurant Improvement Program. I understand and acknowledge that any willful misrepresentation of the information contained in this application could result in disqualification from the program, requiring any funds already disbursed to be repaid in full to the Buchanan Community Development Department.

The applicant further certifies that he/she has read and understands the Restaurant Improvement Program Guidelines. If a determination is made by the Commission that program funds have not been used for eligible program activities, the Applicant agrees that the proceeds shall be returned, in full, to the Buchanan Community Development Department and acknowledges that, with respect to such proceeds so returned, he/she shall have no further interest, right, or claim. It is understood that all Restaurant Improvement Program funding commitments are contingent upon the availability of program funds.

Signed this _____ day of _____, 20 _____

By: _____

**City of Buchanan
Downtown Restaurant Incentive Agreement**

THIS AGREEMENT, entered into this _____ day of _____, 20____, between the Buchanan City Commission (hereinafter referred to as “COMMISSION”) and the following designated OWNER/LESSEE, to wit:

Owner/Lessee’s Name: _____

Name of Business: _____

Tax ID#/Social Security # _____

Address of Property to be Improved:

PIN Number: _____

WITNESSETH:

WHEREAS, the COMMISSION has established a Restaurant Incentive Program for application within the Buchanan Downtown Restaurant Incentive Program Area (“Program Area”); and

WHEREAS, said Restaurant Incentive Program is administered by the COMMISSION with the advice of the Community Development Department and COMMISSION has agreed to participate, subject to its sole discretion, 1) in compensating Owners/Lesseees for the cost of eligible improvements related to restaurant operation in commercial establishments within the Program Area up to a maximum of sixty percent (60%) of the approved contract cost of such improvements and 2) in reimbursing Owners/Lesseees for 100% of the cost of the services of an architect for such improvements up to a maximum of 12% of project cost, or \$5,000 whichever is less, per building, as set forth herein, but in no event shall the total COMMISSION participation exceed a maximum reimbursement amount of thirty thousand dollars (\$10,000) per building; and

WHEREAS, the OWNER/LESSEE’s property is located within the Restaurant Incentive Program Area, and the OWNER/LESSEE desires to participate in the Restaurant Incentive Program pursuant to the terms and provisions of this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements obtained herein, the COMMISSION and the OWNER/LESSEE do hereby agree as follows:

SECTION 1:

With respect to eligible restaurant improvements , the COMMISSION shall reimburse OWNER/LESSEE for the cost of improvements to the OWNER/LESSEE’S property at the rate of sixty percent (60%) of such cost, and shall reimburse OWNER/LESSEE for 100% of the cost of fees for architectural services pertaining to such improvements, up to a maximum amount of 12% of project cost or \$5,000, whichever is less per building as defined herein, provided that the total reimbursement for improvements relating to restaurant operations and related eligible improvements and architectural services shall not exceed thirty thousand dollars (\$10,000) per building.

The actual total reimbursement amounts per this Agreement shall not exceed \$10,000 for restaurant improvements per building. The improvement costs that are eligible for Commission reimbursement include all labor, materials, equipment, and other contract items necessary for the proper execution and completion of the work as shown on the plans, design drawings, specifications and estimates approved by the City. Such plans, design drawings, specifications and estimates are attached hereto as Exhibit I. The reimbursement shall be in the form of a forgivable loan. The loan is forgiven over a period of thirty-six (36) months by the Owner/Lessee’s compliance with the covenants contained in the Promissory Note.

SECTION 2: No improvement work shall be undertaken until its design has been submitted to and approved by the Community Development Department. Following

approval, the OWNER/LESSEE shall contract for the work and shall commence and complete all such work and submit all requests for reimbursement to the Community Development within six months from the date of such approval by the Community Development Department. The OWNER/LESSEE may seek an extension of the deadline, not to exceed 12 months, for completing the work and submitting its request for reimbursement from the Community Development, however, such request must be made in writing and submitted to the Community Development prior to the expiration of the initial deadline to complete the work and submit the requests for reimbursement. In the event that the OWNER/LESSEE fails to comply with these requirements the COMMISSION may terminate this Agreement and its obligation to reimburse the applicant.

SECTION 3: The Community Development shall periodically review the progress of the contractor's work on the restaurant improvement pursuant to this Agreement. Such inspections shall not replace any required permit inspection by the Building Department/Inspectors. All work which is not in conformance with the approved plans, design drawings and specifications shall be immediately remedied by the OWNER/LESSEE and deficient or improper work shall be replaced and made to comply with the approved plans, design drawings and specifications and the terms of this Agreement.

SECTION 4: Upon completion of the improvements and upon their final inspection and approval by the Community Development Director, the OWNER/LESSEE shall submit to the COMMISSION a properly executed and notarized contractor statement showing the full cost of the work as well as each separate component amount

due to the contractor and each and every subcontractor involved in furnishing labor, materials, or equipment in the work. The OWNER/LESSEE shall also submit to the COMMISSION a copy of the architect's statement of fees for professional services for preparation of plans and specifications. The COMMISSION shall, within thirty (30) days of receipt of the contractor's statement, proof of payment and lien waivers, and the architect's statement, issue a check to the OWNER/LESSEE as reimbursement for work completed as per the restaurant incentive program agreement, subject to the limitations set forth in Section 1 hereof.

In the alternative, at its sole discretion, COMMISSION may reimburse the OWNER/LESSEE in one or two payments. The first payment may be made only 1) upon completion of work representing 50% or more of the maximum reimbursement specified in Section 1 hereof and 2) upon receipt by COMMISSION of the architect's invoices, contractor's statements, invoices, and 3) upon a determination by the Community Development that the remainder of the work is expected to be delayed for thirty days or more following completion of the initial work due to weather, availability of materials, or other circumstances beyond the control of the OWNER/LESSEE. The second, final payment shall be made by COMMISSION only upon submittal of all necessary documents as described herein.

SECTION 5: If the OWNER/LESSEE or his contractor fails to complete the improvement work provided for herein in conformity with the approved plans, design drawings and specifications and the terms of this Agreement, then upon written notice being given by the Community Development Director to the OWNER/LESSEE, by

certified mail to the address listed above, this Agreement shall terminate and the financial obligation on the part of the COMMISSION shall cease and become null and void.

SECTION 6: Upon completion of the improvement work pursuant to this Agreement and for a period of three (3) years thereafter, the OWNER/LESSEE shall be responsible for properly maintaining such improvements in finished form and without change or alteration thereto, as provided in this Agreement, and for the said period of three (3) years following completion of the construction thereof, the OWNER/LESSEE shall not enter into any Agreement or contract or take any other steps to alter, change or remove such improvements, or the approved design thereof, nor shall OWNER/LESSEE undertake any other changes, by contract or otherwise, to the improvements provided for in this Agreement unless such changes are first submitted to the Community Director, and any additional review body designated by the Director, for approval. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the improvements as specified in the plans, design drawings and specifications approved pursuant to this Agreement. OWNER/LESSEE shall execute and record a restrictive covenant, in the form supplied by the Commission. This shall be recorded in the Office of the Recorder of Berrien County. Proof of recording shall be provided to the Commission prior to the issuance of any reimbursement of funds.

OWNER/LESSEE further acknowledges in the event any unapproved changes, alterations, or demolition are effected upon the herein described improvements during the aforementioned three-year (3) time period, the OWNER/LESSEE, or their successor or assignee, shall be financially liable to the COMMISSION in a pro rata amount as

calculated by the number of months remaining in said three-year (3) time period. (By way of example: in the event of the modification or demolition of a rest improvement valued at \$10,000 two (2) years after completion, the OWNER/LESSEE or their successor in interest would be responsible for the sum of \$10,000 in repayment to the COMMISSION. $\$10,000 \text{ divided by } 36 \text{ months} = \$277,78/\text{month} \times 12 \text{ months} = \$10,000.$)

SECTION 7: The OWNER/LESSEE releases the COMMISSION from, and covenants and agrees that the COMMISSION shall not be liable for, and covenants and agrees to indemnify and hold harmless the COMMISSION and its officials, officers, employees and agents from and against, any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from or in any way connected with directly or indirectly with the restaurant operation related improvements(s), including but not limited to actions arising from Michigan law. The OWNER/LESSEE further covenants and agrees to pay for the COMMISSION and its officials, officers, employees, and agents for any and all costs, reasonable attorneys' fees, liabilities, or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or causes of action. The COMMISSION shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive the completion of said improvement(s).

SECTION 8: Nothing herein is intended to limit, restrict, or prohibit the OWNER/LESSEE from undertaking any other work in or about the subject premises

which is unrelated to the restaurant operation related improvements provided for in this Agreement.

SECTION 9: This Agreement shall be binding upon the COMMISSION and upon the OWNER/LESSEE and its successors, to said property for a period of three (3) years from and after the date of completion and approval of restaurant operation related improvements provided for herein by the Community Development Department. It shall be the responsibility of the OWNER/LESSEE to inform subsequent OWNER(s)/LESSEE(s) of the provisions of this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

OWNER/LESSEE

Buchanan

City Commission

Mayor/City Manager