

Municipal Housing Facilities By-law

A.-7642-529 – In force and effect on November 14, 2017

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Bill No. 647
2017

By-law No. A.-7642-529

A by-law to provide for municipal housing facilities.

WHEREAS The Corporation of the City of London is the designated Service Manager under the *Housing Services Act, 2011* for the provision of housing programs and services in the geographic area of the City of London and County of Middlesex;

AND WHEREAS the Housing Development Corporation, London (HDC) is a municipal services corporation incorporated by The Corporation of the City of London for the purposes of administration and capital development activities of affordable housing throughout the London and Middlesex communities and is delegated to act on behalf of The Corporation of the City of London as Service Manager for these purposes;

AND WHEREAS section 110 of the *Municipal Act 2001, (the "Act")*, S.O. 2001, c. 25, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person;

AND WHEREAS one of those enumerated classes of municipal capital facilities is municipal housing facilities;

AND WHEREAS the said Ontario Regulation 603/06, as amended, requires that before a by-law authorizing an agreement under section 110 of the Act respecting municipal housing facilities is entered into, a municipal housing facilities by-law must be enacted which must comply with requirements set out in that Regulation;

AND WHEREAS the Municipal Council of The Corporation of the City of London is of the opinion that making use of section 110 of the *Municipal Act* is a desirable means of increasing the supply of affordable housing by providing financial or other assistance at less than fair market value to private and non-profit housing providers on the criteria set out in this by-law;

NOW THEREFORE, the Municipal Council of The Corporation of the City of London enacts as follows:

SHORT TITLE
MUNICIPAL HOUSING
FACILITIES
BY-LAW

1. Definitions

In this by-law,

Act - defined

"Act" means the *Municipal Act 2001*, S.O. 2001, c. 25, as amended, and its Regulations;

Affordable Housing - defined

"Affordable Housing" means affordable housing as set out in section 4 of this by-law;

Average Market Rent" or "AMR" - defined

"Average Market Rent" or "AMR" for any calendar year means average monthly rents based on the London Census Metropolitan Area (CMA) by unit type for that calendar year as determined by CMHC; or modified average monthly rents determined by City's Civic Administration if CMHC rental housing market

information is either unavailable or is deemed to require modification based on local market conditions;

City – defined

“City” means The Corporation of the City of London;

Clerk - defined

“Clerk” means the person appointed by Council pursuant to section 228 of the Act;

CMHC - defined

“CMHC” means the Canada Mortgage and Housing Corporation;

Council - defined

“Council” means The Municipal Council of the Corporation of the City of London;

HDC – defined

“HDC” means the Housing Development Corporation, London;

Household Income - defined

“Household Income” means the gross annual income from all sources of all persons who reside in a housing unit, or who will reside in a housing unit if such housing unit were rented to them;

Housing Provider - defined

“Housing Provider” means a person with whom the City or HDC has entered into or will enter into a Municipal Housing Facilities Agreement under section 2 of this by-law;

Municipal Housing Facilities - defined

“Municipal Housing Facilities” means the class of municipal capital facilities, as prescribed by paragraph 6.1(1) of section 2 of Ontario Regulation 603/06, as amended;

Municipal Housing Facilities Agreement - defined

“Municipal Housing Facilities Agreement” means an agreement as set out in section 2 of Ontario Regulation 603/06, as amended such as but not limited to a contribution agreement;

Municipal Housing Facilities By-law - defined

“Municipal Housing Facilities By-law” means a by-law enacted by Council pursuant to paragraph 18 of Ontario Regulation 603/06, as amended;

Rent Supplement Agreement - defined

“Rent Supplement Agreement” means an agreement related to a subsidy paid to a landlord on behalf of a renter who meets the established eligibility criteria;

Unit Size - defined

“Unit Size” means the size of a unit within a defined Municipal Housing Facility or potential Municipal Housing Facility, measured by the number of bedrooms; and

Waiting List - defined

“Waiting List” means the system for prioritizing and selecting households waiting for rent-geared-to income assistance defined within the Housing Services Act, 2011 or successor legislation.

2. Council may pass by-laws permitting the City and/or HDC acting on behalf of the City to enter into Municipal Housing Facilities Agreements with Housing Providers, pursuant to subsection 110 of the Act, as amended, for the provision of the Municipal Housing Facilities.

3. Upon passing of a by-law referred to in Section 2 of this by-law, the Clerk shall give written notice of the by-law to the Minister of Finance.

4. The definition of Affordable Housing for the purpose of a Municipal Housing Facilities Agreement shall be rental housing that costs less than 30% of total household income, inclusive of electrical, fuel and water and other municipal services,

and shall also be no more than the CMHC Average Market Rent for the associated unit size within the City of London CMA. This definition shall apply to those specific units in a development that are directly funded through a Municipal Housing Facilities Agreement.

5. The City or HDC acting on behalf of the City shall not enter into an agreement mentioned in section 2 of this by-law unless it has determined that any funded housing rental units to be provided as part of the Municipal Housing Facility fall within the definition of Affordable Housing.

6. Affordable housing units to be provided as part of the Municipal Housing Facility shall be made available to eligible individuals and families in the general public including those individuals and families who may be on the Waiting List.

7. Under no circumstances shall a designated affordable rental housing unit within an associated Municipal Housing Facilities Agreement unit be made available

- (a) at rent that is not within the definition of Affordable Housing in this By-law or the associated Agreement; or
- (b) to individuals or families who, at the time the affordable housing unit is initially rented to them, do not meet the established eligibility criteria for affordability as determined by the associated City and/or HDC program.

8. A Municipal Housing Facilities Agreement shall contain, but shall not be limited to, the following provisions:

- (a) the term of the associated Agreement;
- (b) that each unit in the Municipal Housing Facilities shall, throughout the term of the Agreement, meet the definition of Affordable Housing;
- (c) provisions reflecting those matters set out in sections 5, 6 and 7 of this by-law;
- (d) that, subject to section 9 of this by-law, units subject to the Agreement shall not be rented to the Housing Provider or shareholders or directors of the Housing Provider, or any individual not at arm's length to the Housing Provider or shareholders or directors of the Housing Provider;
- (e) that the City or HDC acting on behalf of the City, may register the Agreement on title;
- (f) that the Municipal Housing Facilities Agreement shall be binding on the Housing Provider's heirs, successors and assigns;
- (g) that during the term of the Municipal Housing Facilities Agreement, the Housing Provider shall, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the City or HDC acting on behalf of the City, and that agreement shall impose the terms of the Municipal Housing Facilities Agreement on that subsequent purchaser;
- (h) that in addition to a general indemnity, the Housing Provider shall specifically indemnify the City and HDC if the provision set out in clause (g) of this section of this by-law is breached;
- (i) that a list of the benefits being conveyed to the Housing Provider under this by-law, including their estimated present day monetary value;
- (j) that if the Housing Provider does not carry out its obligations under the agreement, the Housing Provider shall, if demanded, pay to the City or HDC the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest;
- (k) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles;

- (l) the number of housing units being provided;
- (m) provisions regarding rent increases;
- (n) the conditions attached to the financial or other assistance given to the Housing Provider;
- (o) that the Housing Provider shall submit required supporting documentation and report annually to the satisfaction of the City or HDC; and
- (p) other terms and conditions satisfactory to the City or HDC which may include, but which are not limited to, any and all forms of property transactions together with any and all general and specific security as the City or HDC considers necessary and desirable.

9. Despite clause 8(d) of this by-law, units subject to a Municipal Housing Facilities Agreement may be rented to directors of the Housing Provider or an individual not at arm's length to the directors of the Housing Provider if:

- (a) the Housing Provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c.C.35, as amended or a not-for-profit corporation; and
- (b) the Housing Provider is at arm's length to any individual or private for-profit corporation with which the director or individual not at arm's length to the director, as the case may be, has a non-arm's length relationship.

10. (1) As a means of increasing the affordability of housing within the project, the Municipal Housing Facilities Agreement may include provisions requiring a Housing Provider to enter into a Rent Supplement Agreement with the City or HDC.

(2) If the Municipal Housing Facilities Agreement requires the Housing Provider to enter into a Rent Supplement Agreement with the City or HDC as set out in subsection 10(1), the Rent Supplement Agreement shall be entered into concurrently with the Municipal Housing Facilities Agreement although the duration of the supplemented periods may vary from the Municipal Housing Facilities Agreement but shall be a condition of the City or HDC entering into the Municipal Housing Facilities Agreement.

(3) As a further means of increasing the affordability of housing, the Municipal Housing Facilities Agreement may require, in exchange for capital grants or other program or funding incentives that Affordable Housing other than those set out in section 4 of this by-law may be established for some of the units with separate eligibility requirements.

11. A Municipal Housing Facilities Agreement may allow for the lease, operation or maintenance of the Municipal Housing Facility by any person.

12. A Municipal Housing Facilities Agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing facilities that are subject to the agreement, provide for financial or other assistance at less than fair market value or at no cost to the housing provider, and such assistance may include:

- (a) giving or lending money and charging interest; and/or
- (b) giving, lending, leasing or selling property;
- (c) guaranteeing borrowings; and
- (d) providing the services of employees of the municipality.

13. Where the provisions set out in section 110(6) of the *Municipal Act* have been satisfied, Council may exempt from all or part of the taxes levied for municipal or school purposes land or a portion of it on which the Municipal Housing Facilities are or will be located, subject to Council approval of a by-law providing for such exemption.

14. Where the provisions set out in section 110(7) of the *Municipal Act* have been satisfied, Council may exempt from the payment of all or part of the development charges imposed by the City under the *Development Charges Act, 1997*, S.O. 1997, c.27, land or a portion of it on which the Municipal Housing Facilities are or will be located, subject to inclusion of the associated exemptions in the City's approved Development Charges By-law.

15. This by-law may be cited as the Municipal Housing Facilities By-law.

16. By-law No. A.-5814-11, being, "A by-law to provide for municipal housing facilities.", passed on December 2, 2002, is hereby repealed.

17. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on November 14, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – November 14, 2017
Second Reading – November 14, 2017
Third Reading – November 14, 2017