

BY-LAW NO. 2024 – XX

A by-law of the City of Ottawa to provide for municipal housing facilities and repeal by-law 2006-001.

WHEREAS subsection 110(1) of the *Municipal Act*, 2001, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person;

AND WHEREAS Ontario Regulation 603/03 made under the *Municipal Act* allows the council of a municipality to enter into an agreement under subsection 110(1) of the *Municipal Act* for the provision of a variety of enumerated classes of municipal capital facilities;

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

AND WHEREAS the said Ontario Regulation 603/03 requires that before a by-law authorizing an agreement respecting municipal housing project 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 Council is of the opinion that making use of subsection 110(1) 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 non-profit housing providers based on the criteria set out in this by-law;

AND WHEREAS the said Ontario Regulation 603/03 requires that before a by-law authorizing an agreement respecting municipal housing project facilities is entered into a municipal housing facilities by-law must be enacted, which must comply with requirements set out in that Regulation;

THEREFORE the Council of the City of Ottawa enacts as follows:

1. In this by-law,

“Act” means the *Municipal Act*, S.O. 2001, as amended, and its regulations;

“affordable housing” means affordable housing as set out in Section 4;

“affordable housing unit” means a housing unit that meets the definition of affordable

housing;

“capitalized value of affordable housing services” means the difference between the aggregate market value carrying costs for all units in a municipal housing project facility and the aggregate affordable carrying costs charged for these units capitalized over the term of the municipal capital facilities agreement using generally accepted accounting principles as they apply to social housing;

“carrying costs” means:

- (a) in the case of rental housing, includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit, and whether or not a separate charge is made for utilities shall be at the discretion of Council for any particular municipal housing project facility; and
- (b) in the case of ownership, mortgage and interest payments, utilities, and municipal taxes levied pursuant to the Act;

“City” or “City of Ottawa” means the municipal corporation known as the City of Ottawa or the geographic area of the City of Ottawa, as the context requires;

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

“Council” means the Council of the City of Ottawa;

“housing provider” means a corporation or individual legally entitled to own real property in the City of Ottawa, but does not include homeowner;

“market value carrying costs” means carrying costs that might reasonably be charged or incurred for units in a municipal housing facility if rented to, or owned by, the general public without subsidies, as determined by the City of Ottawa;

“municipal housing project facilities” means the municipal housing project facilities class of municipal capital facilities, as set out in Ontario Regulation 603/03, as amended;

“municipal housing project facilities agreement” means a municipal capital facilities agreement as set out in Section 2;

“municipal housing project facilities by-law” means a by-law enacted by Council pursuant to paragraph 18 of section 2 of Ontario Regulation 603/03, as amended;

“Official Plan” means the Official Plan of the City of Ottawa, as adopted by Council by

By-Law No. 2021-386, as amended;

“waiting list” means:

- (a) the Centralized Waitlist, the Below Market Waitlist or successor waiting list; and
- (b) any other waiting list as agreed to by Council in a municipal capital facilities agreement.

2. Council may pass by-laws permitting the City to enter into municipal capital facilities agreements with housing providers, pursuant to subsection 110(1) of the Act, for the provision of the municipal relief.

3. Upon passing of a by-law referred to in Section 2, the Clerk shall give written notice of the by-law to the Minister of Finance, pursuant to subsection 110 (5) of the Act.

4. Pursuant to Ontario Regulation 603/03 section 7 (2), as amended, the definition of affordable housing for the purpose of a municipal capital facilities agreement shall be

(a) All Ottawa Community Housing Corporation affordable housing units with a monthly occupancy cost at or below average monthly city-wide rents by unit type (AMR), for any calendar year, as determined in the annual survey of City-wide rents for the prior calendar year published by the Canada Mortgage and Housing Corporation. If the Canada Mortgage and Housing Corporation does not publish an annual survey of City-wide rents for the prior calendar year, the average monthly City-wide rents for the calendar year shall be determined by the Director of Housing Solutions and Investment Services; OR

(b) Affordable housing units within a property that meet all of the following requirements:

(i) Are not eligible for a property tax exemption under the Section 3 of Assessment Act 1990, and

(ii) Are owned and/or operated by a registered non-profit or co-operative organization organized; and

(iii) Are rented at a monthly occupancy cost at or below the Average Market Rent (AMR), by unit type for any calendar year, as determined in the annual survey of City-wide rents for the prior calendar year published by the Canada Mortgage and Housing Corporation (CMHC). If the Canada Mortgage and Housing Corporation does not publish an annual survey of City-wide AMR for the prior calendar year, the City-wide AMR for the calendar year shall be determined by the Director of Housing Solutions and Investment

Services and those affordable housing units are continuously occupied (with the exception of vacancies for brief periods to accommodate a change in tenancy); and

- (iv) Are constructed pursuant to an affordable housing capital contribution agreement with the City since 2001 for the delivery and/or operation of the affordable housing units or have a rent supplement agreement with the City in good standing for the affordable housing units proposed; and
- (v) House individuals from the City's Centralized Waiting List (CWL), Below-Market Rent (BMR) waitlist, or other similar approved wait lists in the affordable housing units at initial occupancy and upon turnover.

5. The City shall not enter into an agreement mentioned in Section 2 unless it has determined that all the housing units to be provided as part of the municipal housing project facilities meet the definition of affordable housing as defined in section 4.

6. Council may require that for a particular municipal housing project facility, the affordable housing units shall be made available only to individuals and families on the waiting list, subject to their ability to pay the affordable rent for the available unit.

7. Pursuant to Ontario Regulation 603/03 section 7 (2), as amended the municipal capital facilities agreements for municipal housing facilities shall contain the following:
- (a) the term of the agreement, which shall not be less than twenty years,
  - (b) each unit in the municipal housing project facilities shall meet the definition of affordable housing;
  - (c) provisions reflecting those matters set out in Section 5 and, if applicable, Section 6;
  - (d) subject to Section 8, units subject to the agreement shall not be rented or sold 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) the City may register the agreement on title;
  - (f) the municipal capital facilities agreement shall be binding on the housing provider's heirs, successors and assigns;
  - (g) subject to clause (d), the time period during which the municipal capital facilities agreement is in force, 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, and that agreement shall impose the terms of the municipal capital facilities agreement on that subsequent purchaser;

- (h) in addition to a general indemnity, the housing provider shall specifically indemnify the City if the provision set out in clause (h) is breached;
- (i) a list of the benefits being conveyed to the housing provider under this by-law, including their monetary value;
- (j) a statement that the City is satisfied that the monetary value of benefits being conveyed to the housing provider is reasonably offset by the capitalized value of affordable housing services being conveyed to the City;
- (k) if the housing provider does not carry out its obligations under the agreement, the housing provider shall pay to the City up to the full amount of the benefits conveyed under the agreement, together with any applicable costs and interest;
- (l) the City may register a security against title to ensure that the municipal capital facility stays within the definition of affordable housing for the term of the agreement;
- (m) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles; and
- (n) that savings from property taxes, generated through the property tax exemption be directed towards capital repairs, the development of new affordable housing units, or to improve affordability of units in the development and such works be reported annually to the City.

8. (1) Despite clause 7(e), units subject to a municipal capital facilities agreement may be rented to directors of the housing provider or individual not at arm's length to 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;
  - (b) the director in question is not involved in a non-arm's length relationship with the Housing Provider, except as his or her position as director; and
  - (c) the individual not at arm's length to a director is not involved in a non-arm's length relationship with the Housing Provider, except for his or her relationship with that director.
- (2) Despite clause 7(e), units subject to a municipal capital facilities agreement may be sold to the housing provider if the purpose of the sale is to satisfy a condition of ownership, the purpose of which is to ensure that the unit or units continue to meet the definition of affordable housing and meet the conditions of the respective municipal capital facilities agreement.
- (3) If a unit is sold to the housing provider, as set out in subsection (2), the housing provider shall not resell the unit at a price which would result in the unit or units not continuing to meet the definition of affordable housing and not continuing to meet the conditions of

the respective municipal housing project facilities by-law and municipal capital facilities agreement.

9. Pursuant to subsection 110(2) of the Act a municipal capital facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities and for the lease payments to be expressed and payable partly or wholly in one or more currencies as prescribed by the Act.

10. Pursuant to subsection 110(3) and 110(4) of the Act a municipal capital facilities agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing project 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;
- (b) giving, lending, leasing or selling property;
- (c) guaranteeing borrowing; and
- (d) providing the services of employees of the City; and

11. Pursuant to subsection 110(6) of the Act a municipal capital facilities agreement may provide for a full or partial exemption for the facilities from the payment of property taxes levied for Municipal and school purposes.

12. Pursuant to subsection 110(7) of the Act a municipal capital facilities agreement may provide for a full or partial exemption for the facilities from the payment of development charges imposed by the City under the *Development Charges Act, 1997*, S.O. 1997, c.27.

13. Upon the passing of the by-law which provides property tax exemptions mentioned in Section 11 and, if applicable, Section 12, the Clerk shall give written notice of its contents to:

- (a) the assessment corporation; and
- (b) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by the by-law.

14. By-law No. 2002-88, as amended by By-law No. 2003-488 remains in force only with respect to those municipal capital facilities agreements entered into pursuant to it and those municipal housing project facilities By-laws passed pursuant to it which are as follows:

- (a) By-law No. 2003-327 (5931 Perth Street);
- (b) By-law No. 2004-254 (1142 Richmond Road)
- (c) By-law No. 2004-438 (750 March Road);
- (d) By-law No. 2005-94 (259 Ste. Anne Avenue);
- (e) By-law No. 2005-215 (43 Meridian Place);
- (f) By-law No. 2005-346 (380 Somerset Street West); and
- (g) the anticipated municipal housing project facilities at 309 Athlone Avenue and

313 Athlone Avenue which was approved by Council on May 26, 2004, and on July 13, 2005 (revised proposal approved) on the condition that an agreement is successfully negotiated and By-law passed, pursuant to the authority granted on those dates.

15. By-law No. 2006-1, as amended by By-law No. 2014-430 remains in force only with respect to those municipal capital facilities agreements entered into pursuant to it and those municipal housing project facilities By-laws passed pursuant to it which are as follows:
- (a) By-law 2006-053 (345 Clarence Street)
  - (b) By-law 2006-054 (138 Somerset Street)
  - (c) By-law 2006-084 (1067-1069 and 1071 Cummings Ave)
  - (d) By-law 2006-085 (138 Somerset Street)
  - (e) By-law 2006-086 (155 and 343 Parkin Circle)
  - (f) By-law 2006-295 (855-857 and 859-861 Pinecrest Rd)
  - (g) By-law 2009-065 (424 Metcalfe St. and 105 Catherine St.)
  - (h) By-law 2009-080 (372-380 Blake Boulevard)
  - (i) By-law 2009-123 (260 Tomkins Ave)
  - (j) By-law 2009-277 (1053 and 1057 Merivale Rd)
  - (k) By-law No. 2014-431 (Ottawa Community Housing Corporation)
  - (l) By-law No. 2015-119 (Ottawa Community Housing Corporation)
  - (m) By-law No. 2017-297 (Ottawa Community Housing Corporation)
  - (n) By-law No. 2020-361 (Ottawa Community Housing Corporation)
  - (o) By-law No. 2022-257 (254-256 St. Denis St.)
  - (p) By-law No. 2022-258 (92 Florence St.)
  - (q) By-law No. 2021-400 (Ottawa Community Housing Corporation)
  - (r) By-law No. 2023-197 (Ottawa Community Housing Corporation)
  - (s) By-law No. 2024-XX (Ottawa Community Housing Corporation) being the anticipated municipal housing project facilities at 64-72 Chesterton Drives, 48-62 Chesterton Drive, 30-46 Chesterton Drive, 1-27 Woodfield Drive and 12-26 Woodfield Drive on the condition that Council enacts the By-law and that an agreement is successfully negotiated.
16. This by-law may be cited as the Municipal Housing Facilities By-law 2024.

ENACTED AND PASSED this \*\*<sup>th</sup> day of \*\*, 2024.

