

The Corporation of the City of Kenora

By Law Number 84 - 2022

A Municipal Capital Facilities Bylaw for Municipal Housing Project Facilities

Whereas Section 110 of the *Municipal Act 2001*, as amended, (the “Act”), authorizes municipalities to enter into agreements for the provision of municipal capital facilities by any person, including another municipality; and

Whereas under Section 2 of Ontario Regulation 603/06 made under the *Municipal Act*, “Municipal Housing Project Facilities” is a class of municipal capital facilities for the provision of which Municipalities may enter into such agreements and for which assistance may be provided under Section 3 of the said Regulation; and

Whereas under Section 7 of the said Regulation 603/06 a municipality may enter into agreements respecting Municipal Housing Project Facilities if only it has enacted a Municipal Housing Facilities By-law and otherwise complied with the requirements of the said Section 7; and

Whereas Council wishes to encourage, promote and assist in the provision of Affordable Housing in Kenora; and

Whereas Council is desirous of enacting a Municipal Housing Facilities By-law to authorize the City to enter into agreements for the provision of Municipal Housing Project Facilities; and

Whereas a Housing Project may contain both Affordable Housing which is eligible for assistance hereunder and Market Housing, which is not;

Now Therefore the Council of The Corporation of the City of Kenora Enacts as follows:

1. **Definitions:** In this By-law,

“Act” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, and the Regulations thereunder;

“Affordable Housing” means municipal housing which would have a market sales price that would be affordable to those households with incomes in the 60th household income percentile or below or rent that would be affordable to those households with incomes in the 60th household income percentile or below for the City of Kenora as determined by the Ministry of Municipal Affairs and Housing Provincial Policy Statement - Housing Tables, 2020;

“Affordable Rental Housing: means: Housing where monthly rental costs (excluding utilities) do not exceed 30 percent of the tenant gross monthly Household Income and is rented at or below the average market rent for a rental unit in the City of Kenora;

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

“Clerk” means the Clerk of The Corporation of the City of Kenora;

“CHMC” means the Canada Mortgage and Housing Corporation;

“Council” means the Council of The Corporation of the City of Kenora;

“Household Income” means the gross annual income from all sources of all persons who reside in a housing unit, or intend to reside in a housing unit;

“Market Housing” means housing units other than Affordable Housing;

“Municipal Housing Project Facilities” means the class of municipal capital facilities, as prescribed by paragraph 18 of Subsection 2(1) of Ontario Regulation 603/06, as amended;

“Municipal Housing Facilities Agreement” means an agreement authorized under Section 2 of Ontario Regulation 603/06, as amended;

“Municipal Housing Facilities By-law” means a by-law enacted by Council pursuant to Section 7 of Ontario Regulation 603/06, as amended, and includes this by-law;

“Proponent” means a person or corporation (private or non-profit) including another municipality with whom the City has entered into or may enter into a Municipal Housing Facilities Agreement under Section 2 of this by-law;

“Rent” means the amount charged for accommodation in a housing unit and is used in this by-law to mean the same thing as a housing charge under the *Co-operative Corporations Act*.

2. Council may pass by-laws authorizing the City to enter into Municipal Housing Project Facilities Agreements with any person, including another Municipality, pursuant to subsection 110(1) of the *Act*, as amended, for the provision of the Municipal Housing Project Facilities.
3. The City shall not enter into an agreement under Section 2 of this by-law unless it has determined that the housing units to be provided as part of the Municipal Housing Project Facilities constitute Affordable Housing or Affordable Rental Housing.
4. Eligibility for Affordable Housing to be provided under a Municipal Housing Project Facilities Agreement shall be determined in accordance with the following:
 - a) For geared-to-income units, or for units with rents at or below 80 percent of Average Market Rent, tenants will be selected in accordance with the *Housing Services Act* if applicable, and otherwise in accordance with any local policies adopted by Council;
 - b) For Average Market Rent Affordable Housing units, eligible tenants will be selected by the landlord through a non-discriminatory process and in accordance with all application legislation.
5. Under no circumstances shall a housing unit be made available to a household any member of which at the time of the commencement of the term of the proposed lease, already owns a residential property, as determined by the Proponent after making all reasonable inquiries, provided that the City may waive this requirement at its discretion.

6. With respect to the provision, lease, operation or maintenance of the Municipal Housing Project Facilities that are subject to the agreement, Council may provide financial assistance or other assistance at less than fair market value or at no cost to the Proponent. Such assistance may include:
 - a) Giving financial assistance to Private and Not-for-Profit Proponents in the form of a conditional grant to offset part of or the full cost of development;
 - b) Exemption from all or part of the taxes levied for municipal and school purposes as provided in Subsection 110(6) of the *Act*.

7. A Municipal Housing Project Facilities Agreement shall contain, but not be limited to, the following provisions:
 - a) a requirement that all housing units to be provided as part of the Municipal Capital Facilities fall within the definition of Affordable Housing, so that no assistance is provided in respect of Market Housing within the Housing Project;
 - b) The term of the agreement, which, in the case of rental housing, shall not be less than ten years;
 - c) the number of housing units being provided;
 - d) provisions regarding increases to Rent;
 - e) that, subject to Section 8 of this by-law, units subject to the agreement shall not be rented to the Proponent or shareholders, officers, employees or directors of the Proponent, or any individual not at arm's length to the Proponent or shareholders, officers or directors of the Proponent;
 - f) a registrable description of the property and a provision that the City may register the agreement on title;
 - g) a list of the benefits being conferred on the Proponent under Section 110 of the *Act*;
 - h) the conditions to the financial or other assistance provided to the Proponent;
 - i) that if the Proponent does not comply with the terms and conditions of the agreement, the Proponent shall, if demanded, re-pay to the City the entire amount of benefits conferred under the agreement, together with any costs incurred by the City;
 - j) such provisions and limitations respecting the sale, transfer, mortgage or assignment of the Municipal Housing Project Facilities or any part thereof as the Council may require;
 - k) that the Proponent shall be required to submit to the City and an annual report and such further reports and information as the City may require from time to time;

- l) that the Agreement shall be binding on the Proponents, and the Proponent's successors and permitted assigns;
 - m) that during the period in which the Municipal Housing Facilities Agreement is in force, the Proponent shall, as a condition precedent to a sale or other disposition of the Municipal Housing Project Facilities or any portion thereof, require the Transferee or Lessee to agree to be bound by the terms hereof in a form satisfactory to the City;
 - n) other terms and conditions satisfactory to the City including without limitation, any and all forms of required property transactions together with any general or and specific security as the City considers necessary and desirable.
8. Despite Clause 7(e), units subject to a Municipal Housing Project Facilities Agreement may be rented to directors, officers, or members of the Proponent or individuals not at arm's length from its directors, officers, or members if:
- a) the Proponent 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; or
 - b) the Proponent is at arm's length from any individual or private for-profit corporation with which the director or individual not at arm's length from the director or, as the case may be, has a non-arms length relationship.
9. This by-law may be cited as the Municipal Housing Project Facilities By-law.
10. This by-law shall come into force and take effect upon its passing.
11. That bylaw number 109-2019 be hereby repealed.

By-law read a first and second time this 21st day of June, 2022

By-law read a third and final time this 21st day of June, 2022

The Corporation of the City of Kenora:-

Sharon Smith, Acting Deputy Mayor

Heather Pihulak, City Clerk