

The Corporation of the City of Kenora

By Law Number 74 - 2023

A By-law for a Development Contribution By-law

Whereas Section 106 of the Municipal Act, 2001 (the “Act”) prohibits any municipality to assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose; and

Whereas under Section 107 of the Act despite any provision relating to the giving of grants or aid by a municipality, subject to Section 106, a municipality may make grants, to any person, group or body that Council considers to be in the interest of the municipality;

Whereas Council wishes to encourage and promote private sector development in the City of Kenora; and

Whereas the Municipal Capital Facilities By-law for Municipal Housing Project Facilities is the appropriate policy tool to support affordable housing development in the City of Kenora; and

Whereas Council is desirous of enacting a Development Contribution By-law to authorize the City to enter into agreements for private sector projects, excluding affordable housing development, that can clearly demonstrate public benefit in the interest of the municipality;

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;

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

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

“Development” means private sector investment by a Proponent into a project that demonstrates a public benefit subject to Section 107 of the Act;

“Development Lands” means the lands, under the ownership or control of the Proponent, on which a Development is located;

“Proponent” means a private sector investor(s) that submitd an application for support under the Development Contribution By-law;

“Public Benefit” means a tangible benefit to the City and public as a whole, including long-term employment creation, the development or operation of a destination or tourist attraction, the installation of infrastructure that results in broader use by the community, or a development project that will stabilize or increase the municipal tax base.

2. Council may pass by-laws authorizing the City to enter into Development Contribution Agreements for the provision of municipal capital facilities with any person, including another Municipality, pursuant to Section 107 of the *Act*, as amended, for the provision of Development.
3. The City shall not enter into an Agreement under Section 2 of this by-law unless Council has determined that the Development demonstrates public benefit in the interest of the City.
4. Applications for Development support must be submitted in writing through the prescribed form to the City designee.
5. With respect to the Development that is 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.
6. A Development Contribution Agreement shall contain, but not be limited to, the following provisions:
 - a) a list of the benefits being conferred on the Proponent under Subsection 107 of the *Act*;
 - b) any conditions to the financial or other assistance provided to the Proponent;
 - c) that if the Proponent does not comply with the terms and conditions of the Agreement, the Proponent shall, at the request of the City, re-pay to the City the entire amount or portion of benefits conferred under the agreement, together with any costs, administrative or otherwise, incurred by the City; an assignmanet clause providing that the Agreement shall be binding on the Proponents, and the Proponent's successors and permitted assignssuchthat during the period in which the Development Contribution Agreement is in force, the Proponent shall, as a condition precedent to a sale or other disposition of the Development 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; or
 - d) other terms or conditions deemed appropriate by 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.
7. This by-law may be cited as the "Development Contribution By-law".
8. This by-law shall come into force and take effect upon its passing.

By-law read a first and second time this 21st day of June, 2023
By-law read a third and final time this 21st day of June, 2023

The Corporation of the City of Kenora:-

Andrew Poirier, Mayor

Heather Pihulak, City Clerk