

## By-law 2015-113

### **A By-law of the City of Greater Sudbury to Provide for Municipal Capital Facilities for Municipal Housing Project Facilities**

**Whereas** the City of Greater Sudbury is authorized to operate and manage housing projects as well as establish, fund and administer programs for the provision of residential accommodation in its service area under the *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1;

**And Whereas** Subsection 110(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 allows municipalities to enter into agreements for the provision of municipal capital facilities by any person and to authorize certain forms of assistance including tax exemptions;

**And Whereas** pursuant to O.Reg. 603/06 as amended, made under the *Municipal Act, 2001* an agreement for the provision of municipal housing project facilities as municipal capital facilities can provide for a tax exemption;

**And Whereas** the said O.Reg 603/06 as amended, requires that a municipality must pass a municipal housing facilities by-law which is compliant with requirements set out in that regulation prior to passing a by-law authorizing an agreement respecting municipal housing project facilities;

**And Whereas** Council for the City of Greater Sudbury deems it desirable to provide certain forms of financial or other assistance at less than fair market value as provided in Section 110(1) of the *Municipal Act, 2001*, for the provision of municipal housing project facilities as municipal capital facilities on certain terms and conditions and for that purposes enacts this By-law pursuant to paragraph 7(1)(a) of O. Reg. 603/06;

**Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:**

#### Definitions

1. For the purpose of this By-law:

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

“Affordable Housing” means a Housing Project which meets the guidelines in Subsection 2(1) or is deemed to be Affordable Housing in accordance with Subsection 2(2) of this By-law;

“Average Market Rent” for any calendar year means the average monthly market rent by unit type, located within the City of Greater Sudbury as determined and published annually by Canada Mortgage and Housing Corporation in their annual fall housing rental market survey. If Canada Mortgage and Housing Corporation does not publish its fall housing market rental survey of City of Greater Sudbury rents for any given year, then “average market rents” for that period shall be the average rents as determined by the Manager of Housing Services of the City of Greater Sudbury;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury as the context requires;

“Council” means the Council of the City of Greater Sudbury;

“Household” means an individual who lives alone or two or more individuals who live together;

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

“Housing Project” means a project or part of a project designed to provide or facilitate the provision of rental residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto, which project or part of a project is not a registered condominium or to be registered as a condominium;

“Housing Provider” means a person with whom the City has entered into or will enter into a Municipal Housing Project Facilities Agreement under Section 6 of this By-law;

“Housing Unit” mean a unit in a Municipal Housing Project Facility;

“Manager of Housing Services” means the City’s Manager of Housing Services and includes his or her authorized designate;

“Municipal Housing Project Facilities” means the class of municipal capital facilities prescribed in paragraph 18 of Section 2 in O. Reg. 603/06;

“Municipal Housing Project Facilities Agreement” means an agreement compliant with Section 5 of this By-law, entered into with a Housing Provider for the provision of Housing Projects as Municipal Housing Project Facilities as a form of municipal capital facilities;

“Rent Supplement Agreement” means an operating agreement executed between the Housing Provider and the City as a means of increasing the affordability of Housing Units within a Housing Project;

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

“Wait List” means the wait list maintained by the City of Greater Sudbury Housing Registry in accordance with the *Housing Services Act, 2011*, regulations under that Act and any policies adopted by the City in accordance with the Act.

#### Affordable Housing Defined

2.-(1) For the purpose of this By-law and for a Municipal Housing Project Facilities Agreement “Affordable Housing” shall include all Housing Projects in which the rent charged for each Unit Size, inclusive of utilities but exclusive of parking, telephone, cable and other similar fees, is less than or equal to the Average Market Rent for each Unit Size.

(2) Notwithstanding Subsection 2(1), the following shall be deemed Affordable Housing for the purpose of this By-law and for a Municipal Housing Project Facilities Agreement:

- (a) Housing Projects owned by the Greater Sudbury Housing Corporation that offer rent-g geared-to-income accommodations, as determined by the Manager of Housing Services; and
- (b) vacant land owned by the Greater Sudbury Housing Corporation and declared by the Chair of the Board of Directors of the Greater Sudbury Housing Corporation to be intended to be used for the purpose of future construction of a Housing Project.

#### Limits on Municipal Housing Project Facilities Agreement

3. The City shall not enter into a Municipal Housing Project Facilities Agreement unless:
- (a) Council has determined that the Housing Units to be provided as part of the Municipal Housing Project Facilities fall within the definition of Affordable Housing or are deemed to be Affordable Housing; and

- (b) a by-law has been passed by Council authorizing an Agreement for Municipal Housing Project Facilities and authorizing the form of financial assistance to be provided.

#### Eligibility Guidelines for Housing Units in Municipal Housing Project Facilities

4.-(1) Eligibility for the Housing Units to be provided pursuant to a Municipal Housing Project Facilities Agreement shall be determined in accordance with the following:

- (a) Housing Units shall be made available initially to Households on the Wait List subject to their ability to pay the affordable rent for the available unit; and
- (b) provided the Manager of Housing Services determines that there are not Households available as set out in paragraph 4(1)(a) above, Housing Units may be made available to Households of the general public using a selection system approved by the Manager of Housing Services.

(2) Despite Paragraph 4(1)(a), under no circumstances shall a Housing Unit be made available:

- (a) at a market rent not within the definition of Affordable Housing; or
- (b) to a Household who, at the time the Housing Unit is initially rented to them, has Household Income that is greater than the income levels established by the Manager of Housing Services for the given Unit Size.

(3) Housing Units subject to a Municipal Housing Project Facilities Agreement shall not be rented to the Housing Provider or a shareholder or director of the Housing Provider or any individual not at arm's length to the Housing Provider or shareholder or director of the Housing Provider unless:

- (a) the Housing Provider is a non-profit co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35 as amended, or
- (b) the Housing Provider is a not-for-profit corporation.

#### Terms of Municipal Housing Facilities Agreement

5.-(1) Any Municipal Housing Project Facilities Agreement shall include but shall not be limited to provisions that:

- (a) the term is not less than 20 years;

- (b) each Housing Unit in the Municipal Housing Project Facilities shall, throughout the term of the agreement, qualify as Affordable Housing within the meaning of this By-law;
- (c) the Housing Provider comply with those matters set out in Section 4 of this By-law;
- (d) the Municipal Housing Project Facilities Agreement is binding on the Housing Provider's heirs, successors and permitted assigns;
- (e) during the term of the Municipal Housing Project Facilities Agreement the Housing Provider shall, prior to the sale or disposition of the Municipal Housing Project Facility, obtain the prior written consent of the Manager of Housing Services or his or her authorized designate, or the person who holds a successor position, whose consent may be withheld or given subject to conditions, in his or her sole discretion. It shall be a condition precedent to any sale to a subsequent purchaser, that the Housing Provider require the subsequent purchaser to enter into an agreement with the City and that agreement shall impose the terms of the Municipal Housing Project Facilities Agreement on that subsequent purchaser;
- (f) an identification of the benefits being conveyed to the Housing Provider under the By-law;
- (g) if the Housing Provider does not carry out its obligations under the agreement, the Housing Provider shall, if demanded, pay to the City the entire amount of the benefits conveyed under the agreement, together with any applicable costs and interest; and
- (h) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles.

(2) As a means of increasing the affordability of housing within the Housing Project, the Municipal Housing Project Facilities Agreement may require:

- (a) that the Housing Provider enter into a Rent Supplement Agreement with the City; and

- (b) in the event that a capital grant of \$10,000 per Unit or more is provided for in the Municipal Housing Project Facilities Agreement, affordable rents that are lower than those set out in Section 2 of this By-law.

#### Financial Assistance – Tax Exemption – Conditions

6.-(1) A Municipal Housing Project Facilities Agreement may, with respect to the provision, lease, operation and maintenance of the Municipal Housing Project Facilities that are subject to the Municipal Housing Project Facilities Agreement and in accordance with Section 110(6) of the Act, provide an exemption from all or part of the taxes levied for municipal and school purposes on land or a portion of it on which the municipal capital facilities are or will be located that:

- (a) is the subject of a Municipal Housing Project Facility Agreement;
- (b) is owned or leased by a Housing Provider who has entered an agreement to provide facilities under the By-law; and
- (c) is entirely occupied and used or intended for use as a Municipal Housing Project Facility.

(2) The assistance provided under Subsection 6(1) of this By-law shall only be in respect of the provision, lease, operation or maintenance of the facilities that are subject to the Municipal Housing Project Facilities Agreement.

#### Interpretation

7.-(1) Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(2) References to items in the plural include the singular, as applicable.

(3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.

(4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(5) Specific references to statutes and regulations in the By-law are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time.

(6) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.

(7) The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.

Severability / Conflict

8.-(1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

(3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Short Title

9. This By-law may be referred to as the Municipal Housing Facilities By-law.

Effective Date

10. This By-law shall come into full force and effect upon passage.

**Read and Passed in Open Council** this 9th day of June, 2015

  
\_\_\_\_\_ Mayor

  
\_\_\_\_\_ Clerk