

CITY OF ST. THOMAS

BY-LAW NO. 56-2019

A BY-LAW TO PROVIDE FOR MUNICIPAL HOUSING PROJECT FACILITIES.

WHEREAS the Corporation of the City of St. Thomas (the “City”) is the Service Manager designated under the *Housing Services Act, 2011*, S.O. 2011, c. 6 Sched 1 and is thereby authorized to operate and manage housing as well as establish, fund and administer programs for the provision of residential accommodation in the City of St. Thomas and the County of Elgin as provided in the *Housing Services Act, 2011*;

AND WHEREAS Section 110 of the *Municipal Act, 2001*, as amended, (the “Act”) allows municipalities to enter into agreements for the provision of municipal capital facilities by any eligible Proponent;

AND WHEREAS Ontario Regulation 603/06, as amended, under the Act, includes “municipal housing project facilities” in the class of municipal capital facilities for which municipal councils may enter into agreements pursuant to Section 110 of the Act for the purpose of exempting land from taxation or from Development Charges and for the purpose of providing financial assistance or other assistance at less than fair market value or at no cost;

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 facility by-law must be enacted which must comply with requirements set out in that Regulation and which must define “affordable housing”;

AND WHEREAS Council is of the opinion that making use of Section 110 of the Act is a desirable means of increasing the supply of affordable housing by providing relief from land taxation or from development charges or by providing financial assistance or other kinds of assistance at less than fair market value to private and non-profit housing Proponents based on the criteria set out in this By-law;

AND WHEREAS this By-law shall only govern agreements entered into with housing providers on or after passage of this By-law;

AND WHEREAS By-law 80-2005 shall continue to govern agreements entered into with housing providers prior to the passage of this By-law;

NOW THEREFORE the Council of the Corporation of the City of St. Thomas hereby enacts as follows:

1. In this By-law,

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

“Affordable Housing” means affordable housing as set out in Section 4 of this By-law;

“Average Market Rent” means the average monthly unit rent by unit type, located within the City of St. Thomas or County of Elgin as surveyed and updated from time to time by Canada Mortgage and Housing Corporation. If a CMHC average rent survey is not available for any municipality in the County of Elgin, then ‘average market rent’ shall be the CMHC average rents for zone 9 the ‘City of St. Thomas’ within the London Census Metropolitan Area;

“Clerk” means the Clerk of the Corporation of the City of St. Thomas;

“City” means the municipal corporation known as the Corporation of the City of St. Thomas, as the context requires;

“CMHC” means the Canada Mortgage and Housing Corporation;

“Council” means the Council of the Corporation of the City of St. Thomas;

“Geared-to-income” means financial assistance provided in respect of a Household under a social housing program to reduce, in accordance with the *Housing Services Act, 2011*, the amount the household must otherwise pay to occupy a housing unit;

“Household” means a person or persons who reside or will be residing in a housing unit within a Municipal Housing Project Facility;

“Household Income Limit” for the purposes of determining a household’s eligibility under Section 8 of this By-law for a housing unit will be determined annually by the City’s Social Services Department with reference to the applicable annual Provincial Policy Statement Housing Table provided by the Province of Ontario;

“Housing Provider” means a corporation or individual legally entitled to own real property in the City of St. Thomas or the County of Elgin;

“Housing Unit” or “Unit” means a unit intended for use as residential accommodation in a Municipal Housing Facility.

“Municipal Housing Facility (ies)” and “Municipal Housing Project Facility (ies)” mean the class of municipal housing project facilities, as prescribed in Section 2(1) 18 of Ontario Regulation 603/06 under the Act. As will be set out in a “Municipal Housing Facility Agreement”, such project facility may be an entire building or property at a described location or may be a defined portion of a building or property at the location;

“Municipal Housing Facilities Agreement(s)” means a municipal housing facilities agreement as set out in Section 2 of this By-law;

“Municipal Housing Facilities By-law” means a by-law enacted by Council pursuant to Section 7 of Ontario Regulation 603/06 under the Act;

“Proponent” means a Housing Provider that is a corporation (private or non-profit) or individual persons(s) with whom the Service Manager has entered into or will enter into a Municipal Housing Facilities Agreement under Section 2 of this By-law;

“Provincial Policy Statement” means the Ministry of Municipal Affairs and Housing’s Provincial Policy Statement, as issued and amended from time to time under the authority of Section 3 of the *Planning Act*, R.S.O. 1990, c. P.13;

“Regional Market Area” has the context referred to in the Provincial Policy Statement and for purposes of this By-law, including Section 4 hereof, means the area included in ‘zone 9 – St. Thomas’, a zone within the London Census Metropolitan Area according to the Canada Mortgage and Housing Corporation surveys;

“Rent” means the amount charged for accommodation in a housing unit and, if the Proponent is a Co-operative Corporation shall mean the same thing as a housing charge under the *Co-operative Corporations Act*, R.S.O. 1990, c. C. 35;

“Rent Supplement Agreement” means an agreement between the City and a Proponent to provide financial assistance for tenants toward the rent;

“Service Manager” means the City acting as Consolidated Municipal Service Manager for the City of St. Thomas and the County of Elgin under the *Ontario Works Act, 1997*, S.O. 1997, c.25, Sch. A, authorized to operate and manage housing under the *Housing Services Act*, and means the City’s Social Services Department where the context requires;

“Unit Size” means the size of a unit within a Municipal Housing Facility or potential Municipal Housing Facility, measured by the number of bedrooms, consistent with the survey practice of Canada Mortgage and Housing Corporation;

“Waiting List” means the City of St. Thomas’ Coordinated Access System or successor social housing waiting list system;

2. Council may pass by-laws permitting the City to enter into Municipal Housing Facilities Agreements with Proponents, pursuant to subsection 110(1) of the Act, for the provision of Municipal Housing Facilities.
3. Upon passing of a by-law referred to in Section 2 above, the Clerk shall give written notice of the by-law to the Minister of Finance or successor, as set out in the Act.
4. The definition of Affordable Housing for the purpose of a Municipal Housing Facilities Agreement shall be the definition used in the Ministry of Municipal Affairs and Housing’s Provincial Policy Statement, as issued and amended from time to time. The current Provincial Policy Statement, effective April 30, 2014, uses the following definition of affordable housing:

(a) in the case of ownership housing, the least expensive of:

- i. Housing for which the purchase price results in annual accommodation costs which do not exceed 30% of gross annual household income for low and moderate income households; or
- ii. Housing for which the purchase price is at least 10% below the average purchase price of a resale unit in the regional market area;

(b) in the case of rental housing, the least expensive of:

- i. A unit for which the rent does not exceed 30% of gross annual household income for low and moderate income households; or
- ii. A unit for which the rent is at or below the average market rent of a unit in the regional market area.

Where “low and moderate income households” means:

- (a) in the case of ownership housing, household with incomes in the lowest 60% of the income distribution for the regional market area; or
- (b) in the case of rental housing, households with incomes in the lowest 60% of the income distribution for renter households for the regional market area.

And where “regional market area” refers to an area, generally broader than a lower-tier municipality that has a high degree of social and economic interaction. In southern Ontario, the upper or single-tier municipality will normally serve as the regional market area. Where a regional market area extends significantly beyond upper or single-tier boundaries, it may include a combination of upper, single and/or lower-tier municipalities.

5. In addition to Section 4 above, for the purposes of participating in the Investment in Affordable Housing for Ontario program, or successor programs, the definition of Affordable Housing shall be in accordance with program guidelines, as amended from time to time. For this program the current guideline definition of affordability is “rents for the project that are at or below 80% of CMHC Average Market Rent at the time of occupancy”.
6. Notwithstanding the definition of Affordable Housing in Section 4 above, for a Municipal Housing Facility which receives municipal financial exemptions in accordance with Section 110 of the Act and/or Ontario Regulation 603/06 or successor legislation, the following specific standards will apply:
 - (a) In the case of ownership housing, “low and moderate income households” means Households having an income level for which the Service Manager has

identified priority housing needs within the service management area. Such identified household income level shall be below or at the 50th percentile of affordable house prices for the Regional Market Area based on the most recent annual Provincial Policy Statement Housing table for household incomes and affordable house prices provided annually by the Province of Ontario.

- (b) In the case of rental housing, the average rental rate of the Proponent's Housing Units of various sizes may be calculated with or without utilities included but shall be exclusive of parking, telephone, cable, and other non-utility housing fees, and shall be Households having an income level for which the Service Manager has identified priority housing needs within the service management area. Such household income levels shall be below or at the 50th income percentile based on the most recent annual Provincial Policy Statement Housing table for household income and affordable housing provided annually by the Province of Ontario, the corresponding rental rates will be commensurate with the target Household Income Level for the project and shall be below or at the most recently released Average Market Rent (as defined in this By-law) applicable to the respective Unit Size, as will be set out in the Municipal Housing Facility Agreement with the Proponent.
- 7. The City shall not enter into an agreement mentioned in Section 2 above unless it has determined that all the Housing Units to be provided as part of the Municipal Housing Facility fall within the definition of Affordable Housing.
 - 8. A Household shall not be eligible for a Housing Unit within a Municipal Housing Facility unless, at the time of the Household's application for the Housing Unit, the gross income of the Household for the twelve (12) month period prior thereto is equal to or less than the Household Income Limit for that Unit Size.
 - 9. Eligibility for Affordable Housing to be provided as part of a Municipal Housing Facilities Agreement will be determined in accordance with the following:
 - (a) For Geared-to-income Housing Units, tenants will be selected from the Waiting List in accordance with the *Housing Services Act* or successor legislation, regulations under said Act and any policies adopted by the City in accordance with said Act.
 - (b) For Average Market Rent Affordable Housing Units, tenants will be selected by the landlord through a process free of unlawful discrimination and in accordance with all law applicable to landlords.
 - 10. Under no circumstances shall a Housing Unit in a Municipal Housing Facility be made available:
 - (a) at Rent that is not within the definition of Affordable Housing set out in this By-law; or
 - (b) to a Household which, at the time the Housing Unit is initially rented to them, includes a person who already owns a residential property, as determined by the landlord after making all reasonable inquiries. The City may waive this requirement at its discretion.
 - 11. A Municipal Housing Facilities Agreement shall contain, but not be limited to, the following provisions:
 - (a) a clause stating that each Housing Unit in the Municipal Housing Facility shall meet the definition of Affordable Housing;
 - (b) the term of the Agreement, as determined by the City but not less than twenty (20) years;
 - (c) the number of Housing Units to which the Agreement applies;
 - (d) provisions regarding increases to Rent;

- (e) provisions regarding accessibility features;
 - (f) that subject to Section 12 of the By-law, Housing Units subject to the Agreement shall not be rented to the housing Proponent or shareholders or directors of the Proponent, or any individual not at arm's length to the Proponent or shareholders or directors of the Proponent;
 - (g) the City may register the Agreement on the title of the Proponent's Municipal Housing Facility;
 - (h) a list of those benefits referred to in this By-law which are being conveyed to the Proponent, including their estimated present-day value;
 - (i) the conditions attached to the financial or other assistance given to the housing Proponent;
 - (j) enforcement provisions requiring that if the Proponent does not comply with the terms and conditions of the Agreement, the Proponent shall, if demanded, pay to the City the entire amount of benefits conveyed under the Agreement, together with any applicable costs and interest, and providing for other penalties or consequences as determined by the City;
 - (k) that the Proponent shall be required to submit required supporting documentation and report annually in a manner determined by the City and/or in accordance with funding program and/or Service Manager requirements;
 - (l) other terms and conditions satisfactory to the City which may include, but which are not limited to, restrictions on any and all forms of property transactions involving the Municipal Housing Facility, together with any and all general and specific security as the City considers necessary or desirable;
 - (m) the Municipal Housing Facilities Agreement shall be binding on the Proponent's heirs, trustees, successors and assigns;
 - (n) a requirement that during the time period in which the Municipal Housing Facilities Agreement is in force, the Proponent shall, as a condition precedent to a sale of a Municipal Housing Facility to any purchaser, require the purchaser to enter into an agreement with the City, and that agreement shall impose the terms of the Municipal Housing Facilities Agreement on that subsequent owner;
 - (o) such other contractual provisions respecting the sale, transfer, mortgage or assignment of the Municipal Housing Facility as will protect the City's security for the benefits conveyed to the Proponent and ensure that any change of ownership control of the Municipal Housing Facility shall require either the consent of the City or repayment of the benefits conferred on the Proponent;
 - (p) in addition to providing a general indemnity, the Proponent shall specifically agree to indemnify the City if the provision set out in clause (o) is breached.
 - (q) such other contractual provisions which are required to be inserted, based on fundamental contractual drafting principles satisfactory to the City;
12. Despite section 11(f), Housing Units subject to a Municipal Housing Facilities Agreement may be rented to directors of the Proponent or individuals not at arm's length to directors of the Proponent if 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, a not-for-profit corporation or an Ontario corporation without share capital;
13. (1) As a means of increasing the affordability of housing within the Municipal Housing Facility, the Municipal Housing Facilities Agreement may require that the Proponent enter into a Rent Supplement Agreement with the City.

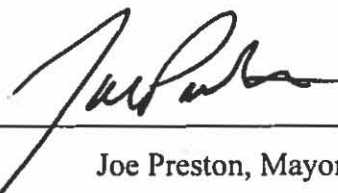
- (2) If the Municipal Housing Facilities Agreement requires the Proponent to enter into a Rent Supplement Agreement with the City as set out in subsection 13(1), the Rent Supplement Agreement shall be entered into concurrently with the Municipal Housing Facilities Agreement and shall be a condition of the City entering into the Municipal Housing Facilities Agreement.
14. A Municipal Housing Facilities Agreement containing the provision set out in Subsection 110(3) of the Act 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 market value or at no cost to the Proponent with respect of the provision, lease, operation or maintenance of the Municipal Housing Facilities that are subject of the agreement, 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 Service Manager.
15. A Municipal Housing Facilities Agreement containing the provision set out in Subsection 110(7) of the Act may provide a full or partial exemption for the facilities from the payment of development charges imposed by the City under the *Development Charges Act, 1997* or successor legislation.
16. The City may pass a by-law related to a Municipal Housing Facilities Agreement containing the provision set out in Subsection 110(6) of the Act to provide a full or partial property tax exemption from all or part of the taxes levied for municipal and school board purposes, for a period as set out of the Agreement, for land on which the Municipal Housing Facilities are, or will be, located.
17. Upon the passing of a by-law referred to in Section 16, the City Clerk shall give written notice of its contents to:
- (a) The assessment corporation
 - (b) The clerk of any other municipality that would, but for the by-law, have the authority to levy rates on the assessment for the land exempted by the by-law, and;
 - (c) The secretary of any school board if the area of jurisdiction of the school board includes the land exempted by the by-law.
18. Any reference in this By-law to provincial legislation, regulations or to the names of ministries, governmental agencies and programs shall be deemed to refer to any future legislation or names that may replace or succeed those referred to in this By-law.
19. This By-law may be cited as the Municipal Housing Project Facilities By-law.

READ a First and Second time this 21st day of May, 2019.

READ a Third time and Finally passed this 21st day of May, 2019.



Maria Konefal, City Clerk



Joe Preston, Mayor