

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 03-046

BEING A BY-LAW OF THE CORPORATION OF THE CITY OF PETERBOROUGH TO PROVIDE FOR MUNICIPAL HOUSING FACILITIES

WHEREAS the Corporation of the City of Peterborough is the Service Manager and is authorized to operate and manage housing as well as establish, fund and administer programs for the provision of residential accommodation in its service area under the *Social Housing Reform Act*, S.O. 2000, c.27;

AND WHEREAS subsection 110 (1) of the *Municipal Act* allows municipalities to enter into agreements for the provision of municipalities facilities by any person;

AND WHEREAS Ontario Regulation 46/94, as amended by Ontario Regulation 189/01, made under the *Municipal Act* allows the council of the 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 46/94, as amended, 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 private and non-profit housing providers on the criteria set out in this By-law;

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

1. In this By-law,

“Act” means the *Municipal Act*, as amended, and its regulations;

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

“City” or “City of Peterborough” means the municipal corporation known as the Corporation of the City of Peterborough, as the context requires;

“CMHC” means the Canada Mortgage and Housing Corporation;

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

“housing provider” means a corporation or individual legally entitled to own real property in the City of Peterborough or the County of Peterborough;

“median market rent” for municipal housing project facilities at any one time means the median market unit rent in the City of Peterborough as determined and amended from time-to-time by CMHC;

“municipal housing project facilities” means the municipal housing project facilities class of municipal capital facilities, as set out in Ontario Regulation 46/94, as amended;

“municipal housing project facilities agreement” means a municipal housing project facilities agreement as set out in Section 2 of this By-law;

“municipal housing project facilities By-law” means a By-law enacted by council pursuant to paragraph 18 of section 2 of Ontario regulation 46/94, as amended;

“rent supplement agreement” means rent supplement agreement as defined in the *Social Housing Reform Act*, S.O. 2000, c.27, as amended;

“unit size” means the size of a unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms;

“waiting list” means the City of Peterborough Coordinated Access System or successor waiting list.

2. Council may pass By-laws permitting the City to enter into municipal housing project facilities agreements with the housing service providers, pursuant to subsection 110 (1) of the Act, as amended, for the provision of municipal housing project facilities.
3. Upon passing a By-law referred to in Section 2, the City Clerk shall give written notice of the By-law to the Minister of Education and Training or successor, as set out in the Act.
4. The definition of “affordable housing” for the purpose of a municipal housing project facilities agreement shall be municipal housing project facilities in which the average rent for each unit size, including utilities, but exclusive of parking, telephone, cable and other related fees, is less than or equal to the most recently released CMHC ‘median market rent’ for the City of Peterborough for that unit size.
5. The City shall into enter into an agreement mentioned in Section 2 unless it has determined that the housing units to be provided as part of the municipal housing project facilities fall within the definition of affordable housing.
6. Under no circumstances shall a housing unit be made available,
 - (a) at rent that is not within the definition of affordable housing; or
 - (b) to individuals or families who, if at the time the housing unit was initially rented to them, would already own a residential property, as determined by the housing provider after making all reasonable inquiries.
7. The municipal housing project facilities agreements shall contain the following:
 - (a) the term of the agreement, which shall not be less than fifteen years but within which time, requirements may vary;
 - (b) each unit in the municipal housing project facilities shall meet the definition of affordable housing;
 - (c) provisions reflecting those matters set out in Sections 5 and 6;
 - (d) subject to section 9 of the By-law, units subject to the agreement not be rented 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 must register the agreement on title;
 - (f) the municipal housing project facilities agreement shall be binding on the housing provider’s heirs, successors and assigns;

- (g) during the time period in which the municipal housing project 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 housing project 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 (g) is breached);
 - (i) a list of the benefits being conveyed to the housing provider under this By-law, including their estimated present day monetary value;
 - (j) if the housing provider does not carry out its obligations under the agreement, the housing provider shall pay to the City the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest; and
 - (k) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles satisfactory to the City of Peterborough.
8. (1) As a means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require that the housing providers enter into a separate rent supplement agreement with the City.
- (2) If the municipal housing project facilities agreement requires the housing provider to enter into a rent supplement agreement with the City as set out in subsection (1), the rent supplement agreement shall be entered into concurrently with the municipal housing project facilities agreement and shall be a condition of the City entering into the municipal housing project facilities agreement.
- (3) As a further means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require, in exchange for significant (greater than \$10,000 per unit) capital grants, that lower affordable rents than set out in Section 4 of this By-law may be established for some of the units and that eligible incoming residents be allowed to move in only if they are selected from the waiting list or from City approved categories of minimum wage earners, or recipients of Ontario Works, Ontario Disability Support Payments, or Old Age Supplement/Canadian Pension Plan.
9. Despite clause 7(d), units subject to a municipal housing project facilities agreement may be rented to directors of the housing provider or to an individual not at arm's length to directors of the housing provider if:
- (a) the housing provider is a non-profit housing cooperative as defined in the *Cooperative Corporations Act*, R.S.O. 1990, c.C.35, as amended or a not-for-profit corporation; and
 - (b) the housing provider is at arm's length to any individual or private for-profit corporation with which the director or individual not at arm's length to the director, as the case may be, has a non-arm's length relationship,
10. A municipal housing project facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities by any person and, pursuant to subsection 110 (3) of Act, for the sale or other disposition of municipal land or buildings that are still required for the purposes of the City.
11. A municipal housing project facilities agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing project facilities that are subject to the agreement:

- (a) provide for financial or other assistance at less than market value rent or at no cost to the housing provider with respect to the provision, lease, operation or maintenance of the facilities that are subject of the agreement, and such assistance may include:
 - (i) giving or lending money and charging interest
 - (ii) giving, lending, leasing or selling property.
- 12. A municipal housing project facilities agreement containing the provisions set out in Subsection 110 (7) of the *Municipal 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, S.O. 1997, c.27.
- 13. This By-law may be cited as the Municipal Housing Facilities By-law.

By-law read a first and second time this 31st day of March, 2003

By-law read a third time and finally passed 31st day of March, 2003

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk