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By-law XX-2023



A By-law to Provide for Municipal Housing Facilities and to Repeal By-law 17-2021

Whereas the Corporation of Northumberland County 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 *Housing Services Act, 2011*, SO 2011, c 6, Sched. 1, as amended; and

Whereas subsection 110 (1) of the *Municipal Act, 2001*, SO 2001, c 25, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person; and

Whereas O Reg 603/06, *Municipal and School Capital Facilities - Agreements and Tax Exemptions*, as amended, made under the *Municipal Act, 2001*, allows the council of the municipality to enter into an agreement under subsection 110 (1) of the *Municipal Act, 2001* 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 O Reg 603/06, as amended, requires that before 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 County 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 a broad range of housing providers on the criteria set out in this By-Law; and

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Whereas this By-law repeals and replaces the County's By-law 17-2021; and

Now Therefore be it Enacted as a By-law of the Council of the Corporation of the County of Northumberland as follows:

1. **That** In this By-Law:

"Act" means the Municipal Act, 2001, SO 2001, c.25, as amended, and its regulations;

"affordable housing" means housing units in which the maximum monthly rent for each unit is less than or equal to the average rent for Northumberland County for that size of unit, provided that where the maximum monthly rent includes utilities, the rent for each unit is up to \$100 more than the average rent for the particular area of the County for that size of unit. In the context of this by-law, affordable housing is defined based on the current market rental market and not based on what households can afford;

"average rent" means the Average Market Rent for Northumberland County as determined pursuant to section 10 of this By-law;

"County" or "Northumberland County" or "Municipality" means the municipal corporation known as Northumberland County or the geographic area of Northumberland County, as the context requires;

"CMHC" means the Canada Mortgage and Housing Corporation;

"Council" means the Council for the Corporation of Northumberland County;

"housing provider" means a corporation or individual legally entitled to own real property in Northumberland County and is providing municipal housing project facilities on that property;

"low or moderate income households" means households of one or more individuals which, if the affordable housing was rented to them would spend thirty percent or more of their gross annual income, as determined by the housing provider after making all reasonable inquiries, on an annualized monthly rent for the unit;

"MMAH" means the Ontario Ministry of Municipal Affairs and Housing;

"municipal housing project facilities" means the municipal housing project facilities class of municipal capital facilities, as set out in O Reg 603/06, as amended;

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“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 this By-Law or any previous By-Law enacted by Council as required by O Reg 603/06, as amended;

“rent” has the same meaning as in section 2 of the *Residential Tenancies Act, 2006*, SO 2006, c. 17, 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;

2. Council may pass By-Laws permitting the County to enter into municipal housing project facilities agreements with housing providers, pursuant to subsection 110 (1) of the Act for the provision of municipal housing project facilities.
3. The County shall not enter into an agreement mentioned in Section 2 unless it is determined that the housing units to be provided as part of the municipal housing project facilities:
 - a. fall within the definition of affordable housing;
 - b. meet a threshold for affordability for low or moderate income households as established by Northumberland County within specific program criteria for specific municipal housing project facilities; and;
 - c. do one or more of the following:
 - i. support the development of affordable housing in the County;
 - ii. preserve and/or improve affordability of housing in the County;
 - iii. assist in bringing existing affordable housing into compliance with the Ontario Building Code.
4. A municipal housing project facilities agreement shall include but shall not be limited to the following terms and conditions:
 - a. the term of the municipal housing project facilities agreement;
 - b. the number of housing units being provided;

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- c. that each unit in the municipal housing project facilities shall meet the definition of affordable housing in this By-law;
- d. the rent which may be charged for each housing unit in the municipal housing project facility for the first year of the term, and the mechanism by which such rent may annually increase and the restrictions on such annual increases to provide for maintenance affordable housing requirements for the term of the municipal housing project facilities agreement;
- e. provisions reflecting those matters set out in Sections 8 of this by-law, if applicable;
- f. that housing units subject to the municipal housing project facilities agreement shall 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, unless the housing provider is a non-profit co- operative as defined in the *Co- operative Corporations Act*, RSO. 1990, c.35, as amended, or is a not-for-profit corporation, or is an eligible household under specific program criteria, such as the creation of additional dwelling units;
- g. tenant selection criteria including but not limited to income verification for the first year of residency (e.g. at time of application or upon unit turnover) whereby maximum household incomes are established to confirm eligibility;
- h. that the County may, in its sole discretion, may implement a rent supplement agreement on at least 50% of the affordable rental units in each project;
- i. that the County may require the registration of the municipal housing project facilities agreement on title to any property on which the municipal housing project facilities are situated;
- j. that the municipal housing project facilities agreement shall be binding on the housing provider's heirs, successors and assigns;
- k. that during the term of the municipal housing project facilities agreement the housing provider shall, as a condition precedent to any transfer of the property on which the municipal housing project facilities are situate, require the transferee to assume the municipal housing project facilities agreement or to enter into a new municipal housing project facilities agreement with the County;
- l. that, in addition to any general indemnities, the housing provider shall specifically indemnify the County if the provision set out in clause (k) is breached;

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- m. a list of the benefits being conveyed to the housing provider pursuant to this By-law, including their estimated monetary value at the time of the municipal housing project facilities agreement is executed;
 - n. that if the housing provider does not carry out its obligations under the municipal housing project facilities agreement, the housing provider shall pay to the County the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest;
 - o. such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles satisfactory to the County; and
 - p. a communication protocol with the County with respect to services provided under the municipal housing project facilities agreement for the purpose of project monitoring, enforcement and public announcements.
5. Without limiting section 4, a municipal housing project facilities agreement:
- a. shall provide the County with the first right of refusal for consideration of rent supplement agreements for units within the project which may require that the housing providers enter into a separate rent supplement agreement with the County, at the County's sole discretion;
 - b. may allow for the provision, lease, operation or maintenance of the municipal housing project facilities by any person, including the County or another municipality; and
 - c. a municipal housing project facilities agreement may contain provisions for capital incentives and/or other financial incentives as determined from time to time by Council for the County.
6. With respect to the provision, lease, operation or maintenance of the municipal housing project facilities that are subject to a municipal housing project facilities agreement, the County may, at its sole discretion, provide for financial or other assistance at less than fair market value or at no cost to the housing provider in the municipal housing project facilities agreement, or in a separate agreement. Such assistance may include:
- a. giving or lending money and charging interest;
 - b. guaranteed borrowing;

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- c. providing the services of employees of the municipality; and/or
 - d. giving, lending, leasing or selling property.
7. It is Council's intention that new multi-residential buildings constructed and approved by County Council under a Provincial/Federally funded Affordable Housing Program, which are to be used as municipal housing project facilities, shall be subject to property taxes at a rate as set out in the *Assessment Act*, RSO 1990, c A.31, as amended and the regulations thereunder, provided that Council may consider property tax reductions, exemptions or grants on a site specific basis as detailed within the municipal housing project facilities agreement pursuant to Section 2.
8. Pursuant to subsection 110(6) of the Act, and subject to subsections 110 (15), (17), (18) and (19) of the Act, Council may exempt from taxation, for municipal and school purposes, land or a portion of it on which municipal housing project facilities are or will be located that,
- a. is the subject of a municipal housing project facilities agreement;
 - b. is owned or leased by the housing provider who has entered into a municipal housing project facilities agreement; and
 - c. is entirely occupied and used or intended for use for affordable housing.
9. Pursuant to subsection 110(7) of the Act, and subject to that subsection, Council may despite the *Development Charges Act, 1997*, SO 1997, c 27, as amended, or any other By-law of the County, exempt from the payment of all or part of the development charges imposed by the County under that Act or by-law for land or a portion of it on which municipal housing project facilities are or will be located that,
- a. Are the subject of a municipal capital facilities agreement;
 - b. Is owned or leased by the housing provider who has entered into a municipal housing project facilities agreement; and
 - c. is entirely occupied and used or intended for use for affordable housing.
10. Affordable rent will be established by Northumberland County on an annual basis, based on the average market rent for Northumberland County, for each unit size. The process for establishing the annual average market rent rate for the purposes of this by-law is as follows:

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- a. Annual rent levels will be established, first, based on average monthly rent for the County by unit type as determined by the Ministry of Municipal Affairs and Housing (MMAH) based on annual rental market data from Canada Mortgage Housing Corporation (CMHC). Except where, in the sole opinion of Northumberland County, acting reasonably, this would not adequately reflect the current rental market in Northumberland County, in which case an alternative average rent will be set by Northumberland County;
 - i. When determining an alternate average market rent, Northumberland County will establish the rent level using both the MMAH data and the local market rental market;
 - b. Staff responsible for the housing services systems planning will establish the annual average market rental rate at the same time as the MMAH releases their annual data; and
 - c. The annual average market rental rate will be published on the Northumberland County website.
11. If a municipal housing project facilities agreement is to contain those provisions set out in Section 7, a By-Law distinct from the By-Law referred to in Section 2 shall be passed, and the details regarding the exemptions authorized by Section 8 shall be inserted into that By-Law.
12. The By-Law referred to in Section 11 shall specify an effective date, which shall be the date of passing of the By-Law or a later date.
13. Upon passing of a By-Law referred to in Section 11, the Municipal Clerk shall give written notice of the contents of the By-Law to:
- a. Municipal Property Assessment Corporation;
 - b. The Clerk of any other municipality that would, but for the by-law, have had 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 board includes the land exempted by the By-Law;
14. The County may establish a reserve fund for the exclusive purpose of renovating, repairing or maintaining municipal housing project facilities that are provided under a municipal

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housing project facilities agreement. A municipal housing project facilities agreement may provide for contributions to a reserve fund established under this section by any person.

15. Any municipality within Northumberland County who intends to exercise any powers respecting land or municipal housing project facilities pursuant to subsection 110(9) of the Act shall consult with the County prior to exercising such powers.
16. This By-Law may be cited as the Municipal Housing Facilities By-Law for the Corporation of the County of Northumberland.
17. Should any sections of this by-law, including any section or part of any schedules attached hereto be declared by a court of competent jurisdiction to be void, invalid, or ultra vires, it is the intention of Council that the remaining sections of this by-law shall nevertheless remain valid and binding.
18. By-Law 17-2021 is hereby repealed.
19. Despite section 18, any municipal housing project facilities agreement authorized by and entered into pursuant to By-law 17-2021 or any previous By-law respecting the provision of municipal housing project facilities is hereby deemed to be valid as if authorized by and entered into pursuant to this by-law.

That By-law **XX**-2023 be introduced and be deemed to be read a first, second and third time and passed, signed and sealed this 16th day of August, 2023.

Mandy Martin, Warden

Maddison Mather, Clerk