

By-law Number 18-2022
of The Regional Municipality of Durham

Being a by-law for the provision of municipal housing facilities.

Whereas The Regional Municipality of Durham is a service manager under the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1;

And Whereas, the Region has adopted a Housing and Homelessness Plan pursuant to the Housing Services Act, 2011 for the purposes of making affordable housing available and to prevent homelessness for all Durham residents;

And Whereas pursuant to section 110 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the council of a municipality may enter into agreements for the provision of municipal capital facilities by any person;

And Whereas Ontario Regulation 603/06, as amended, sets out the classes of municipal capital facilities for which municipal councils may enter into agreements pursuant to section 110 of the Act;

And Whereas Ontario Regulation 603/06, as amended, provides that municipal housing project facilities is a class of municipal capital facilities for the purpose of section 110 of the Act;

And Whereas Ontario Regulation 603/06, as amended, provides that the council of a municipality may not enter into an agreement under section 110 of the Act, unless it first enacts a municipal housing facility by-law;

And Whereas Council is desirous of enacting a municipal housing facility by-law to permit Council to enter into agreements for the provision of municipal housing project facilities;

And Whereas Council passed By-law 48-2003 being the Municipal Housing Facilities By-law on July 9, 2003;

And Whereas Council now wishes to repeal By-law 48-2003 and replace it with a new and updated Municipal Housing Facilities By-law in order to facilitate the provision of Affordable Housing in the Region;

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. In this by-law:
 - a) "Act" means the Municipal Act, 2001 S.O. 2001, c.25, as amended, and its regulations;
 - b) "affordable housing" means affordable rental housing as set out in section 2 of this by-law;
 - c) "Region" means The Regional Municipality of Durham;
 - d) "area municipality" means the municipality or corporation of the Town of Ajax, the Town of Whitby, the Township of Brock, the Township of Uxbridge, the Township of Scugog, the City of Pickering, the Municipality

of Clarington, and the City of Oshawa;

- e) "Commissioners" means the Commissioners of Finance and Social Services, or their Commissioner delegates;
- f) "Council" means the Regional Council of The Regional Municipality of Durham;
- g) "Clerk" means the person appointed by Council pursuant to section 228 of the Act;
- h) "CMHC" means the Canada Mortgage and Housing Corporation;
- i) "average market rent" means the average monthly rent by unit type as determined in the annual survey of rents for the prior calendar year published by CMHC for the area municipality in which the municipal housing project facility is situated. If the average market rent for a unit type or for an area municipality is not published by CMHC, the "average monthly rent" will be the average monthly rent as determined by the Region;
- j) "household" means individuals and families who will be or are residing in a housing unit within a municipal housing project facility;
- k) "household Income" means the annual income from all sources of all persons who comprise a Household;
- l) "household income limit" means the maximum household income that a household can have to be eligible for placement on the wait list;
- m) "housing project" means a project or part of a project designed to provide or facilitate the provision of residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto;
- n) "housing unit" means a unit in a housing project for use as residential accommodation;
- o) "unit type" means the type of housing unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms;
- p) "housing provider" means a person who operates a housing project and with whom the Region has entered into or will enter into a municipal housing project facilities agreement under section 3;
- q) "wait list" means the Durham Access to Social Housing wait list or such other wait list as may be adopted by the Region for the purposes of selecting households for community or affordable housing;
- r) "municipal housing project facilities" or "municipal housing project facility" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 46/94, as amended;
- s) "municipal housing project facilities agreement" means a municipal housing project facilities agreement between the Region and a housing provider for

the provision of municipal housing project facilities pursuant to a by-law passed by Council pursuant to subsection 110(1) of the Act;

- t) "guideline" for any calendar year means the rent increase guideline as determined and published annually by the Minister of Municipal Affairs and Housing under the Residential Tenancies Act, 2006, S.O. 2006, c.17, as amended, or any successor thereto; and
 - u) "arm's Length" means arm's length as defined under s. 251 (1) of the Income Tax Act, R.S.C. 1985 (5th Supp.) c. 1, as amended.
2. For the purposes of this by-law, and of all municipal housing project facilities agreements, "affordable housing" and "affordable rental housing" mean units with monthly occupancy costs that are less than or equal to the average monthly rent for that unit type
 3. Subject to section 4, Council may pass by-laws permitting the Region to enter into municipal housing project facilities agreements with housing providers, pursuant to subsection 110(1) of the Act, for the provision of the municipal housing project facilities.
 4. The Region shall not enter into a municipal housing project facilities agreement unless it has determined that:
 - a) Council has enacted a by-law authorizing the entering into of the municipal housing project facilities agreement for the provision of the municipal housing project facility;
 - b) all of the housing units to be provided to households that are eligible for housing units as part of the municipal housing project facilities agreement meet the definition of affordable housing as set out in section 2;
 - c) The Region is a service manager under the Housing Services Act, 2011; and
 - d) the municipal housing project facilities agreement to be entered into contains the provisions set out in section 8.
 5. Upon passing of a by-law referred to in section 3, the Clerk shall give written notice of the by-law to the Minister of Finance or successor, as set out in the Act.
 6. A household shall be eligible for a housing unit within a municipal housing project facility if, at the time the household is selected for the unit, it is on the wait list, or is not on the wait list but has household income within the allowable limit to be on the wait list.
 7. Housing units subject to a municipal housing project facilities agreement shall not be rented or sold to the officer or director of the housing provider, or any individual not at arm's length to the housing provider or shareholder, officer or director of the housing provider unless the housing provider is a non-profit co-operative as defined in the Co-Operative Corporations Act, R.S.O. 1990, c. C35, as amended.
 8. The municipal housing project facilities agreements shall include, but shall not be limited to, the following provisions:
 - a) the term of the agreement;

- b) the number of affordable housing units being provided;
 - c) each affordable housing unit to be provided in the municipal housing project facility meets the definition of affordable housing set out in section 2;
 - d) each housing unit to be provided shall be made available only to eligible households, in accordance with sections 6 and 7;
 - e) the Region may register the agreement on title;
 - f) the conditions attached to the financial or other assistance given to the housing provider;
 - g) the conditions respecting the sale, transfer, mortgage, or assignment of the municipal housing project facility;
 - h) the housing provider shall be required to report annually and submit documentation to the satisfaction of the Commissioners;
 - i) the consequences if the housing provider fails to comply with the terms and conditions of the agreement, which may include that the housing provider pay to the Region the financial assistance that has been provided to the housing provider; and
 - j) other terms and conditions satisfactory to the Commissioners and the Regional Solicitor, which may include, but which are not limited to, any and all forms of property transactions together with any and all general or specific security as the Commissioners and the Regional Solicitor consider necessary or desirable.
9. 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 fair market value or at no cost to the housing provider, which assistance may include:
 - i) giving or lending money and charging interest;
 - ii) giving, lending, leasing or selling property;
 - b) exempt land or a portion of it on which a municipal housing project facility is or will be located from payment of all or part of the development charges imposed by the Region pursuant to the Development Charges Act, 1997;
 - c) subject to subsections 110(15), (17), (18) and (19) of the Act, exempt land or a portion of it on which a municipal housing project facility is or will be located from all or part of the taxes levied for municipal and school purposes.
10. Upon Council enacting a by-law under section 3 of this by-law, and subject to the requirements of any such by-law, authority is delegated to the Commissioners to:
- a) enter into municipal housing facilities agreements with non-profit and private developers of affordable housing.
 - b) apply for and enter into agreements with the federal and provincial governments to receive provincial and/or federal financial or other support for the municipal housing project facility; and

- c) enter into agreements with area municipalities for the purposes of funding, which may include financial or other assistance, from the area municipality to the Region to facilitate the delivery of the municipal housing project facility.
11. Despite the repeal of By-law 48-2003, none of the provisions of this by-law shall impact municipal housing project facility agreements entered into under the authority of By-law 48-2003.
 12. By-law 48-2003 is hereby repealed.

This by-law may be cited as the Municipal Housing Facilities By-law.

This By-Law Read and Passed on the 23rd day of March, 2022.

J. Henry, Regional Chair and CEO

C. Bandel, Acting Regional Clerk