

**THE CORPORATION OF THE MUNICIPALITY OF POWASSAN
BY-LAW 2021-05**

**A BY-LAW TO PROVIDE FOR MUNICIPAL CAPITAL FACILITIES FOR
MUNICIPAL HOUSING PROJECT FACILITIES**

WHEREAS Section 110(1) of the *Municipal Act 2001* c. 25 as amended allows a Municipality to pass a by-law to enter into an agreement 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 pursuant to 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 the District of Parry Sound Social Services Administration Board, as municipal Service Manager, is the delivery agent under the *Ontario Works Act, 1997* S.O. 1997, c. 25, Schedule A, O.Reg. 136/98 and is authorized to establish, administer and fund housing and homelessness programs and services and may provide housing directly in its service area under the *Housing Services Act, 2011*; and

WHEREAS Council for Municipality of Powassan deems it desirable to provide certain forms of financial or other assistance at less than fair market value as provided in *Section 1 JO (1) of the Municipal Act, 2001* c. 25, for the provision of municipal housing project facilities as municipal capital facilities on certain terms and conditions and for that purpose enacts this by-law pursuant to paragraph 7(1)(a) of O. Reg. 603/06;

NOW THEREFORE, the Council of The Municipality of Powassan hereby enacts as follows:

Section 1- Definitions

1. **Act** means the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended and regulations thereunder;
2. **Affordable Housing** means a Housing Project which meets the guidelines in Subsection 2 or is deemed to be Affordable Housing in accordance with Subsection 2 of this By-law;

3. **Average Market Rent** for any calendar year means the average monthly market rent by unit type, located within the Municipality of Powassan 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 the District of Parry Sound rents for any given year, then "average market rents" for the period shall be the average rents determined by the District of Parry Sound Social Services Administration Board;
4. **Council** means the Council of the Municipality of Powassan;
5. **Household** means an individual who lives alone or two or more individuals who live together;
6. **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 the;
7. **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;
8. **Housing Provider** means with whom the Municipality has entered into or will enter into a Municipal Housing Project Facilities Agreement under this By-law;
9. **Housing Unit** means a unit in a Municipal Housing Project Facility;
10. **Municipal Housing Project Facilities** means the class of municipal facilities prescribed in paragraph 18 of Section 2 of O. Reg. 603/06;
11. **Municipal Housing Project Facilities Agreement**, herein called the "Agreement", means an agreement compliant with Section 5 of the 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;
12. **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;
13. **Wait List** means the wait list maintained by the District of Parry Sound Social Services Administration Board in accordance with the *Housing Services Act*, 2011, regulations under the Act and any policies adopted by the District of Parry Sound Social Services Administration Board in accordance with the Act.

Section 2- Affordable Housing Defined

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 per Unit Size, inclusive of utilities but exclusive of parking, telephone and other similar fees, is less than or equal to the Average Market Rent of each Unit Size.

Section 3-Limits on Municipal Housing Project Facilities Agreement

The Municipality 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.

Section 4 - Eligibility Under a Municipal Housing Project Facilities Agreement

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) The District of Parry Sound Social Services Administration Board determines that there are not Households available as set out above, Housing Units may be made available to Households of the general public using a selection system approved by the CAO of the District of Parry Sound Social Services Administration Board.

Section 5 - Terms of Municipal Housing Facilities Agreement

1. Any Municipal Housing Project Facilities Agreement shall include, but shall not be limited to such provisions:
 - a) The term is not less than 20 years
 - b) Housing Units in the Municipal Housing Project Facility 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, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the Township 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) Such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles.

Section 6 - Financial and/or other Assistance – Conditions

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 Agreement provide for financial or other assistance at less than fair market value or at no cost to the Housing Provider with respect to the provision, lease, operation or maintenance of the facilities that are the subject of the Agreement, and such assistance may include:

- a) Giving in-kind municipal services; and/or
- b) 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 on in accordance with Section 110 (6) of the Act; and
- c) The tax rate applied to the project may remain the same as the Residential rate for the duration of any municipal facilities capital agreement, and any renewal thereof.

2. The assistance provided under Article 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.

Section 7 – Interpretation

1. Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is the 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.

Section 8 - Severability / Conflict

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 provisions of any Federal or Provincial legislation or another By-law of the Municipality.
3. Where a provision of this By-law conflicts with the provisions of another By-law in force in the Municipality, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

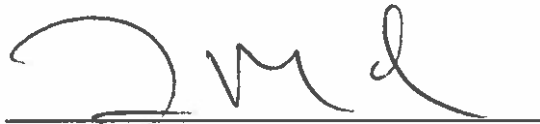
Section 9 - Short Title

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

1. That Council adopts a Municipal Housing Facilities policy identified as Schedule "A", attached hereto and forming part of this by-law.
2. This by-law shall come into full force and effect upon passage.
3. Should any section, subsection, clause, paragraph or provision of this By-law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision of this by-law or the by-law as a whole.
4. That the Clerk of the Municipality of Powassan is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-law and schedule, after the passage of this By-law, where such modification or corrections do not alter the intent of the by-law or its associated schedule.

READ a first time this 16th day of March, 2021.

READ a second and third time and finally passed in open Council this 16th day of March, 2021.



Peter McIsaac, Mayor



Maureen Lang, CAO, Clerk, Treasurer