

Attachment 1:

Updated Municipal Capital Facilities By-Law

Authority: Planning and Housing Committee

CITY OF TORONTO

BY-LAW #####-2021

To enact a new Municipal Housing Facility By-law and to repeal By-law 1756-2019.

Whereas section 252 of the City of Toronto Act, 2006 allows the City to enter into agreements for the provision of municipal capital facilities; and

Whereas Ontario Regulation 598/06 sets out the classes of municipal capital facilities for which the City of Toronto may enter into such agreements, one of which is municipal housing project facilities; and

Whereas the City passed By-law 124-2016 being a municipal housing facility by-law, pursuant to the provisions of section 252 of the City of Toronto Act, 2006 and Ontario Regulation 598/06, to set out the definitions of and policies regarding the City housing project facilities; and

Whereas the City repealed By-law 124-2016 and passed By-law 1756-2019 as the new municipal housing facility by-law; and

Whereas the City wishes to repeal and replace By-law 1756-2019 with a new and updated municipal housing facility by-law, pursuant to the provisions of section 252 of the City of Toronto Act, 2006 and Ontario Regulation 598/06; and

Whereas the City is a service manager under the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1; and

Whereas this by-law contains the elements of a municipal housing facility by-law required by Ontario Regulation 598/06;

The Council of the City of Toronto enacts:

1. City of Toronto By-law 1756-2019 is repealed.
2. In this new by-law:
 - (a) "Act" means the City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A, as amended;
 - (b) "Affordable Housing", for the purpose of this by-law and all municipal housing facility agreements,

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- (i) for new affordable rental housing, means housing units with monthly occupancy costs at or below Average Market Rents;
 - (ii) for existing affordable rental housing, means housing units:
 - 1 in Former Federal Projects providing low rent units or rent-geared-to-income units; or
 - 2 forming part of the Tenants First Scattered Housing Portfolio, with monthly occupancy costs at or below Average Market Rents and
 - (iii) for assisted ownership housing, means housing units with a sale price at or below the Average Resale Price of a home.
- (c) "Average Market Rents" means average monthly City-wide rents by unit type as determined in the annual fall survey of City-wide rents for the prior calendar year published by CMHC; if CMHC does not publish an annual fall survey of City-wide rents for the prior calendar year, then Average Market Rents for the calendar year shall be City-wide average rents as determined by the Executive Director, or the General Manager in the case of Former Federal Projects and Tenants First Scattered Housing Portfolio;
- (d) "Average Resale Price" means the average City-wide resale price of a home as reported by the Ministry of Municipal Affairs and Housing (MMAH); if MMAH does not publish an Average Resale Price, then the Average Resale Price shall be determined by the Executive Director;
- (e) "CMHC" means the Canada Mortgage and Housing Corporation;
- (f) "City" means the City of Toronto;
- (g) "Council" means the Council of the City of Toronto;
- (h) "Executive Director" means the Executive Director of the City's Housing Secretariat, and the Executive Director's designate or successor;
- (i) "Former Federal Project" means housing units which were developed and operated under sections 26, 27, and 95 of the National Housing Act R.S.C., 1985, c. N-11, where the operating agreements originally with CMHC have expired and which are or were formerly designated in the regulations for the purposes of subsection 68 (1) under the Housing Services Act, 2011 as a project in relation to which the City as service manager was responsible for administering a transferred housing program;
- (j) "General Manager" means the General Manager of the City's Shelter, Support & Housing Administration Division, or the General Manager's designate or successor;

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- (k) "household income" means the gross annual income from all sources of all persons who reside in a housing unit, or who will reside in a housing unit;
- (l) "housing benefit" means a non-repayable, monthly financial benefit provided to make rental housing more affordable;
- (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 provider" means a person with whom the City has entered into or will enter into a municipal housing project facilities agreement under Section 3(1);
- (o) "housing unit" includes a unit in a housing project owned or rented by an occupant;
- (p) "initial income limit" means a gross household income at or below four times the annualized monthly occupancy cost for the housing unit;
- (q) "low-rent units" means housing units with monthly occupancy costs, prior to applying any housing benefit, at or below 80 per cent Average Market Rents;
- (r) "moderate-rent units" means housing units with monthly occupancy costs, prior to applying any housing benefit, at or greater than 80 per cent and at or below 100 percent of Average Market Rents;
- (s) "monthly occupancy costs" means in the case of a rental housing unit, the total of the monthly rent payable to the landlord for a housing unit including the cost of hydro, heat, water and hot water; and monthly occupancy costs do not include charges for applicable taxes, parking, cable, internet, telephone or any other like charges;
- (t) "municipal housing project facility" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 598/06, as amended;
- (u) "municipal housing project facility agreement" means an agreement as set out in Section 3(1);
- (v) "rent-geared-to-income units" means housing units, to which a rent supplement agreement applies, with monthly occupancy costs at or below Average Market Rents;
- (w) "rent supplement agreement" means a contract for a non-portable housing benefit provided directly to landlords for households living in a specific housing unit;

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- (x) "Tenants First Scattered Housing Portfolio" means single family housing units which were formerly owned by Toronto Community Housing and which are subject to a social housing program as defined in Section 453.1 of the City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A; and
 - (y) "unit type" means the type of housing unit by number of bedrooms.
- 3.**
- (1) Subject to Section 3(2), Council may pass by-laws permitting the City to enter into municipal housing project facility agreements, pursuant to section 252 of the Act, for the provision of municipal housing project facilities.
 - (2) Prior to entering into a municipal housing project facility agreement, the following conditions must be met:
 - (a) Council has enacted a by-law authorizing the entering into of the municipal housing project facility agreement for the provision of the municipal housing project facility;
 - (b) all the housing units to be provided as part of the municipal housing project facility meet the applicable definition of affordable housing as set out in Section 2(b) of this by-law;
 - (c) the City is a service manager under the Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1; and
 - (d) public eligibility for the housing units to be provided as part of the municipal housing project facility will be determined in accordance with Section 4.
- 4.**
- (1) Subject to Section 4(2), eligibility for housing units to be provided as part of a municipal housing project facility will be determined as follows:
 - (a) for rent-geared-to-income units, tenants will be selected in accordance with the Housing Services Act, 2011, regulations under the Housing Services Act, 2011 and any policies adopted by the City in accordance with the Housing Services Act, 2011;
 - (b) for low-rent units, tenants will be selected either in the same manner as for rent-geared-to-income units or from the City's centralized waiting list or from the waiting lists of community agencies, non-profit agencies or other groups satisfactory to the Executive Director, or the General Manager in the case of Former Federal Projects and the Tenants First Scattered Housing Portfolio;
 - (c) for moderate-rent units, tenants will be selected by the landlord provided that, when entering into the tenancy for the housing unit, the tenant has an household income at or below the Initial Income Limit and provided that

tenant selection is carried out through a non-discriminatory process to the satisfaction of the Executive Director, or the General Manager in the case of Former Federal Projects and the Tenants First Scattered Housing Portfolio; and

- (d) for assisted home ownership units, homebuyers will be selected by the vendor, provided that homebuyer selection is carried out through a non-discriminatory process to the satisfaction of the Executive Director, homebuyers are selected from the waiting lists of community agencies, non-profit agencies or other groups, and can include income and other homebuyer eligibility requirements as required by the City from time to time.
 - (2) Housing units subject to a municipal housing project facility agreement shall not be rented or sold to a shareholder or director of a housing provider, or any individual not at arm's length to the housing provider or shareholder 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. C.35, as amended, or is a not-for-profit corporation.
5. A municipal housing project facility agreement may, with respect to the provision, lease, operation and maintenance of a municipal housing project facility that will be operated as affordable rental housing at or below Average Market Rent:
- (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; and
 - (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 City pursuant to the Development Charges Act, 1997, S.O. 1997, c. 27;
 - (c) subject to section 252(6) of the Act, exempt from taxation for municipal and school purposes land or the portion of it on which the municipal housing project facility is or will be located that:
 - (i) is owned or leased by the housing provider; and
 - (ii) is entirely occupied and used or intended for use as a municipal housing project facility; and
 - (d) if a municipal housing project facility agreement contains those provisions set out in Section 5(c), a by-law distinct from the by-law referred to in Section 3(1) shall be enacted and the information set out in Section 5(c) shall be set out in that by-

law and the by-law shall specify an effective date which shall be the date of passing of the by-law or a later date.

6. A municipal housing project facility agreement may, with respect to the provision of an assisted home ownership municipal housing project facility:
 - (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; and
 - (ii) giving, lending, leasing or selling property; and
 - (b) provide development charges imposed by the City pursuant to the Development Charges Act, 1997, S.O. 1997, c. 27 at a preferred or discounted rate, or offer a deferral of all or a portion of the development charges, for the land or a portion of it on which a municipal housing project facility is or will be located.
7. Municipal housing project facility agreements for Affordable Housing defined in Section 2(b)(i) and (ii) of this By-law, shall include but shall not be limited to the following terms and conditions:
 - (a) the term of the agreement;
 - (b) that each municipal housing project facility meets the definition of Affordable Housing set out in Section 2(b)(i) or (ii);
 - (c) that each housing unit shall be made available to tenants in accordance with Sections 4(1)(a), (b) and (c);
 - (d) a list of benefits being conveyed to the housing provider in accordance with Section 5;
 - (e) for Former Federal Projects a minimum of 50 percent of the housing units must be low-rent units;
 - (f) the monthly occupancy costs which can 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 monthly occupancy costs may annually increase and the restrictions on such annual increases; and
 - (g) other terms and conditions satisfactory to the City Solicitor and the Executive Director or General Manager, 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 City Solicitor and the Executive Director or General Manager, in the case of a Former Federal Project and the Tenants First Scattered Housing Portfolio, consider necessary and desirable.

- 8.** Municipal housing project facility agreements for assisted home ownership housing shall include but shall not be limited to the following terms and conditions:
- (a) the term of the agreement;
 - (b) that each municipal housing project facility meets the definition of Affordable Housing set out in Section 2(b)(iii);
 - (c) that each housing unit shall be made available to homebuyers in accordance with Section 4(1)(d);
 - (d) a list of benefits being conveyed in accordance with Section 6;
 - (e) the legal mechanism to be used to secure the City benefits made available for the development of the housing unit;
 - (f) the method of determining the allocation of capital gains between the City and the homeowner on sale, if any; and
 - (g) other terms and conditions satisfactory to the City Solicitor and the Executive Director, 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 Executive Director and the City Solicitor consider necessary and desirable.
- 9.** (1) Despite the repeal of By-law 124-2016, none of the provisions of this by-law shall impact municipal housing project facility agreements entered into or exemptions from taxation for municipal and school purposes passed under By-laws 562-2017 and 563-2017.
- (2) Any reference to By-law 124-2016, or any provision of it is deemed to be a reference to this by-law, modified as necessary.

(Seal of the City)