

BY-LAW NUMBER 02-035

OF

THE REGIONAL MUNICIPALITY OF WATERLOO

A By-law of the Regional Municipality of Waterloo to provide
for municipal housing facilities.

WHEREAS the Regional Municipality is the service manager under the *Ontario Works Act*, 1997 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 210.1(2) of the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, allows municipalities to enter into agreements for the provision of municipal capital 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 a municipality to enter into an agreement under subsection 210.1(2) 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 210.1(2) 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;

THEREFORE the Council of the Regional Municipality of Waterloo enacts as follows:

1. In this By-law,

"Act" means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, and its regulations;

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

"average CMHC rent" for municipal housing project facilities at any one time means the average unit rent in the Regional Municipality of Waterloo (defined by CMHC as the Kitchener Census Metropolitan Area) as determined and amended from time-to-time by CMHC;

"Region" or "Region of Waterloo" means the municipal corporation known as the Regional Municipality of Waterloo, as the context requires;

"clerk" means the person appointed by Council pursuant to section 73 of the Act;

"CMHC" means the Canada Mortgage and Housing Corporation;

"Council" means the Council of the Regional Municipality of Waterloo;

"housing provider" means a corporation, or individual, legally entitled to own real property in the Regional Municipality of Waterloo;

"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 Waterloo Region Co-ordinated Access System or successor waiting list.

2. Council may pass By-laws permitting the Region to enter into municipal housing project facilities agreements with housing service providers, pursuant to subsection 210.1(2) 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 Regional 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, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the most recently released average CMHC rent for the Region of Waterloo for that unit size.
5. The Region shall not 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 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 twenty 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 6 and 7;
 - (d) subject to section 9 of this By-law, units subject to the 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;
 - (e) the Region 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 Region, 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 Region 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 Region 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 Regional Municipality of Waterloo.
8. 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 Region:
- (a) if the municipal housing project facilities agreement requires the housing provider to enter into a rent supplement agreement with the Region 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 Region entering into the municipal housing project facilities agreement.
 - (b) 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 Regionally approved categories of minimum wage earners, or recipients of Ontario Works, Ontario Disability Support Payments, or Old Age Supplement/Canada 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 co-operative as defined in the *Co-operative 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 210.1(3) of Act, for the sale or other disposition of municipal land or buildings that are still required for the purposes of the Region.
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 of 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 210 (8) of the Municipal Act may provide for a full or partial exemption for the facilities from the payment of development charges imposed by the Region 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, second and third time and finally passed in the Council Chamber in the Regional Municipality of Waterloo this * day of * A.D., 20**.