

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2026-12

A BY-LAW TO ESTABLISH MUNICIPAL HOUSING
FACILITIES UNDER THE MUNICIPAL ACT, 2001 AND
TO REPEAL BY-LAW 2017-89

WHEREAS The Regional Municipality of Niagara is a service manager for the geographic region that is Niagara region, appointed in accordance with the *Housing Services Act, 2011*, SO. 2011, c. 6, Sched. 1, as designated in Schedule 2 of Ontario Regulation 367/11;

WHEREAS as service manager, The Regional Municipality of Niagara has the obligation to carry out measures to meet its objectives and targets relating to housing needs within the service manager's service area, being the geographic area within its jurisdiction;

WHEREAS The Regional Municipality of Niagara had previously delegated a number of its powers and duties under the *Housing Services Act, 2011*, SO. 2011, c. 6, Sched. 1, to Niagara Regional Housing;

WHEREAS on May 31, 2021, Niagara Regional Housing ceased to perform those delegated powers and duties resulting from changes to its organizational structure, and The Regional Municipality of Niagara has subsequently resumed such responsibilities;

WHEREAS section 110 of the *Municipal Act, 2001*, 2001, c. 25 as amended, allows a municipality to enter into agreements for the provision of municipal capital facilities by any person, including another municipality;

WHEREAS Ontario Regulation 603/06, as amended, made under the *Municipal Act, 2001*, sets out the classes of municipal capital facilities for which a municipality may enter into agreements, one such class being municipal housing project facilities;

WHEREAS Ontario Regulation No. 603/06, as amended, requires that a municipal council enact a municipal housing facility by-law prior to enacting a by-law authorizing entering into such an agreement;

WHEREAS the Council of The Regional Municipality of Niagara wishes to increase the supply of affordable housing in Niagara region by providing financial and/or other assistance to housing providers; and

WHEREAS the Council of The Regional Municipality of Niagara wishes to repeal By-law 2017-89 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 Niagara enacts as follows:

1. In this By-law,

- a) "Act" means the *Municipal Act, 2001*, S. O. 2001, c. 25, as amended;
- b) "Affordable Housing" means Housing Units offered for rent, for which the monthly rent, is at or below 170% of the Average Market Rent, as published by CMHC, for Niagara Region or its Local Area Municipalities;
- c) "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;
- d) "Average Market Rent" (AMR) means:
 - i. For apartments, the average monthly market rent by bedroom type for privately initiated apartment structures for each of the respective Local Area Municipalities within Niagara region, as determined and amended by CMHC;
 - ii. For townhouses, the average monthly market rent by bedroom type for privately initiated townhouse structures for each of the respective Local Area Municipalities within Niagara region, as determined and amended by CMHC; or
 - iii. If CMHC does not publish an annual rent for the unit size by structure type for the Niagara service area, then the rent as determined by Niagara Region following the principles for determination used by CMHC for areas where it does or has previously published annual rents by unit size and structure.
- e) "CMHC" means Canada Mortgage and Housing Corporation;
- f) "Council" or "Regional Council" means the Council of The Regional Municipality of Niagara;
- g) "Eligible" and "Eligibility" have the meanings outlined under section 4;
- h) "Household" means all those persons living within a Housing Unit;

- i) "Household Income" means the gross annual income from all sources for all persons who reside in a housing unit or who will reside in a housing unit;
- j) "Housing Project" means a project or part of a project designed to provide or facilitate the provision of rental of residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto;
- k) "Housing Provider" means a person with whom the Niagara Region has entered into or will enter into a Municipal Housing Facilities Project Agreement;
- l) "Housing Unit" means a unit, owned or rented by an occupant, in a Housing Project;
- m) "Initial Income Limit" means an annual gross household income at or below four times the annualized monthly rent from all sources for all persons who reside in the Housing Unit or who will reside in the Housing Unit;
- n) "Local Area Municipalities" means any one of the municipalities or corporations of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and/or Township of West Lincoln;
- o) "Low-rent Units" means housing units with monthly rent, prior to applying any housing benefit, at or below 100 per cent of Average Market Rent;
- p) "Market-rent Units" means housing units with monthly rent, prior to applying any housing benefit, between 126% of AMR and up to 170% AMR;
- q) "MMAH" means the Ministry of Municipal Affairs and Housing;
- r) "Moderate-rent Units" means housing units with monthly rent, prior to applying any housing benefit, between 101% and 125% of AMR;

- s) "Municipal Housing Facilities Project Agreement" means a municipal housing project facilities agreement between the Region and a Housing Provider for the provision of the Municipal Housing Project Facilities pursuant to a by-law passed by Council pursuant to subsection 110(1) of the Municipal Act;
 - t) "Municipal Housing Project Facility" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 603/06, as amended;
 - u) "Municipal Housing Facilities Project Agreement By-law" means a by-law enacted by Council pursuant to sections 110 of the Act and Ontario Regulation 603/06, as amended, to approve a Municipal Housing Facilities Project Agreement, and to grant such assistance and exemptions as Council deems appropriate and in compliance with the Act;
 - v) "Niagara Region" means the municipal corporation known as The Regional Municipality of Niagara;
 - w) "Niagara region" means the geographic area that incorporates the geographic area within the jurisdiction of the Local Area Municipalities; and
 - x) "Rent-geared-to-income Units" means housing units in which the rent is calculated at 30% of the household income.
2. Regional Council may pass Municipal Housing Facilities Project Agreement By-laws in accordance with section 110 of the Act, permitting Niagara Region to enter into Municipal Housing Facilities Project Agreements with the Housing Providers for the provision of Housing Projects.
 3. Upon the passing of a Municipal Housing Facilities Project Agreement By-law, Niagara Region's Regional Clerk shall give written notice of the by-law to all persons requiring notice pursuant to the Act and applicable regulations.
 4. Eligibility for housing units to be provided as part of a Municipal Housing Facilities Project Agreement 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 it, and any policies adopted by Niagara Region in accordance with it; and
 - b) For Low-Rent Units, tenants will be selected by the landlord provided that, when entering into the tenancy for the housing unit, the tenant has a 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 Niagara Region Staff.
5. Niagara Region shall not enter into a Municipal Housing Facilities Project Agreement unless:
- a) Council has enacted a by-law authorizing the entering into of the Municipal Housing Facilities Project Agreement for the provision of the Municipal Housing Facility;
 - b) The Region continues to be designated as a Service Manager under the *Housing Services Act, 2011*; and
 - c) The Municipal Housing Facilities Project Agreement meets the requirements set out in section 6.
6. The Municipal Housing Facilities Project Agreements shall include, but not be limited to, the following provisions:
- a) the term of the Municipal Housing Facilities Project Agreement shall not be less than twenty-five (25) years;
 - b) each Housing Unit within the Housing Project as defined in the agreement shall meet the definition of Affordable Housing in section 1 throughout the term of the Municipal Housing Facilities Project Agreement;
 - c) for Affordable Housing Units offered for rent, the rents be charged per unit, the method by which the rents may be increased during the term of the Agreement and the limits on such increases;

- d) the Housing Provider shall only provide Affordable Housing Units to individuals who are at Arm's Length to the Housing Provider, its shareholders, officers, directors and employees;
 - e) the Region be permitted to register the agreement and other instruments, as determined by Niagara Region, on title to the property at the sole cost of the Housing Provider;
 - f) the conditions respecting the sale, transfer, mortgage, encumbrance or assignment of any interest in the Municipal Housing Project Facility;
 - g) a list of financial or other assistance accruing to the Housing Provider under this By-law, including their estimated present day monetary value and conditions attached thereto;
 - h) the consequences if the Housing Provider fails to comply with the terms and conditions of the Municipal Housing Facilities Project Agreement, which may include that the Housing Provider pay back to Niagara Region the financial assistance that has been provided to the Housing Provider;
 - i) requirement for the Housing Provider to report annually and submit documentation therefor to the satisfaction of Niagara Region, in the manner specified in the Municipal Housing Project Facilities Agreement; and
 - j) such other terms and conditions as the Niagara Region's Chief Administrative Officer and/or the Director of Legal and Court Services, or their delegate, may consider necessary or advisable and recommend in order to satisfy the requirements of all applicable policies and legislation or protect the interests of Niagara Region, and/or the residents of the Housing Facility to which the Municipal Housing Project Facilities Agreement relates.
7. A Municipal Housing Project Facilities Agreement may allow for the provision, lease, sale, operation or maintenance of the Municipal Housing Project Facility by any person.

8. A Municipal Housing Project Facilities Agreement may, with respect to the provision, lease, sale, operation, or maintenance of the Housing Project that is subject to the agreement, provide for financial or other assistance at no cost to the Housing Provider, which assistance may, subject to approval, include:
 - a) giving or lending money and charging interest;
 - b) giving, lending, leasing or selling property;
 - c) guaranteeing borrowing;
 - d) full or partial exemption from taxation;
 - e) full or partial exemption from the payment of development charges, and;
 - f) providing the services of employees of Niagara Region.
9. That despite the repeal of By-law 2017-89 and prior repeal of By-law 34-2004, none of the provisions of this by-law shall impact any agreements entered into under the respective authority of those by-laws.
10. That By-law No. 2017-89 is hereby repealed.
11. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Bob Gale, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: February 26, 2026