THE CITY OF WINNIPEG
BY-LAW No. ___/2022

A By-law of THE CITY OF WINNIPEG to establish and implement the Affordable Housing Now Program.

WHEREAS, under the Canada's National Housing Strategy, the Canada Mortgage and Housing Corporation provides financial support for the development of affordable housing in situations where additional support is provided by another level of government;

AND WHEREAS it is desirable to provide additional support for the development in Winnipeg of affordable housing that is eligible for support under the National Housing Strategy;

AND WHEREAS The City of Winnipeg and CMHC have entered into a Memorandum of Understanding to acknowledge cooperation and collaboration as being a critical element to the success of delivering new affordable housing in Winnipeg through the Affordable Housing Now Program and the National Housing Strategy.

THEREFORETHE CITY OF WINNIPEG, in Council assembled, enacts as follows:

PART 1
INTRODUCTORY PROVISIONS

Short title

1 This By-law may be cited as the *Affordable Housing Now Program By-law*.

Definitions and interpretation

2 The following definitions apply in this by-law.

"affordable housing development" means the development of multi-unit residential rental housing that is recognized as affordable housing for the purpose of determining its eligibility for financial support under the National Housing Strategy. For the purposes of this by-law the minimum qualification for eligibility in the Program is that a minimum of 30% of the units developed must be rented at less than 80% of median market rents (MMR) as determined by CMHC.

"approval", unless otherwise stated, means the approval of a grant application made under this By-law, and "approved" has a corresponding meaning.

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"approved property" means a property in relation to which a grant application has been approved under section 0.

"base taxes", in relation to an approved property, means the annual municipal real property taxes payable for that property in the year of approval.

"Charter" means *The City of Winnipeg Charter*.

"City" means The City of Winnipeg continued under section 8 of the Charter.

"CMHC" means the Canada Mortgage and Housing Corporation.

"Conditional Approval Letter" has the meaning ascribed thereto in subsection 7(3).

"Council" means the council of the City.

"Director" means the Director of Planning, Property and Development and includes any City employee acting in that capacity.

"Downtown" means the area within the City of Winnipeg included in the Downtown Winnipeg Zoning By-law No. 100/2004, excluding the area covered by the SHED TIF Zone By-law No. 98/2012.

"Housing Improvement Zone" or **"HIZ"** means an area designated as a housing improvement zone in the City of Winnipeg Housing Policy.

"incremental taxes" means the municipal real property taxes payable in relation to an approved property for any year after an occupancy permit is issued for the approved affordable housing development less the amount of the property's base taxes.

"municipal real property taxes" means taxes imposed by the City for its own purposes on real property pursuant to clause 334(1)(a) and subsection 341(1) of the Charter but, for greater certainty, does not include:

(a) taxes levied for school purposes;

(b) business or business improvement taxes or fees for licences in lieu of business taxes;

(c) fees for mobile home licences;

(d) personal property taxes;

(e) local improvement taxes;

(f) frontage taxes;

(g) arrears of taxes;

(h) any amounts added to taxes for the recovery of a debt pursuant to a statutory authority;

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(j) electricity and gas taxes;

(k) penalties for unpaid taxes.

"new construction" means the development of multi-residential housing that includes affordable housing in the form of new construction, the conversion of non-residential to residential, or the rehabilitation of former residential buildings currently uninhabitable (vacant buildings) due to prolonged periods of neglect or abandonment.

"owner", in relation to real property, means a person who is the owner of a freehold estate, and includes

(a) a person who is an owner, with another person as joint tenant or tenant in common, of a freehold estate; and

(b) a real owner, as defined in subsection 1(1) of *The Municipal Assessment Act*.

"permanent supportive housing" means rental housing with individualized services for people who have high needs related to physical or mental health, substance use or recovery, and/or developmental disabilities;

"priority housing" means housing that, in the Directors' opinion, meets

(a) a housing need for a vulnerable population as described in the National Housing Strategy, or

(b) an affordable housing need described in the *City of Winnipeg Comprehensive Housing Needs Assessment*, January 2020.

"real property" means real property as defined in the *Charter*.

"social housing" means the provision of independent self-contained units for low-income residents whose total household income does not exceed the posted Social Housing Program Income Limit (e.g. Manitoba Housing program). Social housing is often rent geared-to-income (RGI) housing, where a subsidy is provided to cover the difference between the tenant's RGI rent and the unit's market rent. Social housing includes buildings owned and operated by the Province or a non-profit organization; as well as individual subsidized units owned and operated by private or non-profit landlords.

"transitional housing" means a supportive and temporary or intermediate type of accommodation that is intended to bridge a gap to permanent or independent housing by offering structure, supervision, support, life skills, education, etc., in a setting that is more long term, service intensive and private than Emergency Shelters, stays are 3 months to 3 years in length.

"vacant building" means a building that is not being used or occupied.

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PART 2
AFFORDABLE HOUSING NOW PROGRAM

Program established

3 The program for the distribution and administration of grants to be provided in accordance with this by-law is hereby established as the "Affordable Housing Now Program".

Program overview

4(1) The Affordable Housing Now Program provides support for the development of affordable rental housing that is also eligible for support under the Government of Canada's National Housing Strategy. The support is provided from different sources in accordance with this section.

4(2) Grants may be paid to an owner of an approved property out of the incremental taxes paid in respect of that property

(a) for up to 25 years for an approved property that

(i) is located in the Downtown, or

(ii) is located in a designated Housing Improvement Zone, or

(iii) is owned and operated by a non-profit housing provider, or

(iv) includes the rehabilitation of a vacant building where financial need is demonstrated to the satisfaction of the City.

(b) for up to 15 years for an approved property that is

(i) located outside of the Downtown or a designated Housing Improvement Zone, or

(ii) owned by a private or for-profit developer.

4(3) The total allocation of all grants under subsection 4(2) shall not exceed

(i) $20,000,000 for the Downtown, or such additional amount as may be approved by Council; and

(ii) $30,000,000 outside the Downtown, or such additional amount as may be approved by Council.

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4(4) In addition to grants paid under subsection 4(2), from funds budgeted by City for these purposes,

(a) up to $1,000,000 in total may be granted to owners of approved properties within the first five years of the program as contributions toward the building permit costs for those properties, or such additional amount as may be approved by Council; and

(b) up to $1,000,000 in total may be granted to owners of approved properties within the first five years of the program as contributions toward eligible construction costs for those properties, or such additional amount as may be approved by Council.

4(5*)* The grants paid under clauses 4(4)(a) and 4(4)(b) may be paid to a non-profit housing provider who can demonstrate that

(a) additional funding is required for the project in addition to funding granted under subsection 4(2); and

(b) the funds will be used for permanent supportive housing, transitional housing or where rents are at or near social housing.

Maximum grant for approved property

5(1) The total of the grants payable under subsection 4(2) in respect of an approved property must not exceed the lesser of

(a) 80% of the incremental taxes paid in respect of the property for a maximum of

(i) 25 years, as set out in clause 4(2)(a); or

(ii) 15 years, as set out in clause 4(2)(b);

(b) the maximum payable out of incremental taxes as set out in the Conditional Approval Letter issued for the property.

5(2) A grant payable out of an approved property's incremental taxes for a year

(a) is not payable for any year or part of a year before the first full year after an interim or final occupancy permit for the building is issued and a final assessment of the entire approved property is completed;

(b) must not exceed 80% of the incremental taxes paid for the year; and

(c) is not payable until the later of September 1 of that year and the date the property taxes for the property for that year have been paid in full.

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5(3) The total of the grants payable under subsection 4(4) in respect of an approved property must

(a) not exceed $10,000 per residential unit to a maximum of $250,000 in total per approved property;

(b) be owned by a non-profit housing organization; and

(c) provide supportive housing, priority housing, or another type of housing that is deemed acceptable by the Director.

Application for grant

6(1) An owner of a property may apply for a grant under the Affordable Housing Now Program in respect of a proposed affordable housing development for the property if

(a) the proposed development is for new construction; and

(b) the owner has applied for and expects to receive financial assistance under the National Housing Strategy for the proposed development.

6(2) The application must be made in the form and manner authorized by the Director.

Approval of grant

7(1) When considering a grant application, the Director

(a) must have regard to the *City of Winnipeg Comprehensive Housing Needs Assessment* and the City of Winnipeg Housing Policy;

(b) may require the applicant to demonstrate how the development will address the City's needs for affordable housing;

(c) is not required to process or approve applications in the order in which they were received and may give priority to those expected to have a greater impact in addressing the City's needs for affordable housing and to those submitted by non-profit housing providers; and

(d) may have discussions with the applicant about the type and amount of grant to be provided with a view to maximizing the impact of the Affordable Housing Now Program while also maximizing the grants payable to the owner.

7(2) Approval of a grant application, and the payment of grants in accordance with that approval, for a proposed affordable housing development is conditional on

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(a) the development being approved by CMHC for financial support to be provided by CMHC under a National Housing Strategy program for affordable housing and continuing to qualify for that financial support;

(b) the development not being located within the SHED TIF Zone, as defined in the SHED TIF Zone By-law No. 98/2012;

(c) the development neither having been approved nor conditionally approved under the Downtown Residential Development Grant Program By-law No. 77/2010, as of March 1, 2014;

(d) the development neither having been approved nor conditionally approved for a tax increment financing grant by the City for which a grant was paid;

(e) the property and the development complying with all City by-laws, standards and codes;

(f) the applicant submitting, within a period of time specified by the Director, a construction schedule demonstrating that completion of the entire project will occur within four years after the date of the Conditional Approval Letter or before any later deadline established by the Director in writing;

(g) full and complete building permit applications for the development being submitted within 12 months after the approval is given or before any later deadline established by the Director in writing;

(h) an interim or final occupancy permit for the building being issued by the end of the fourth full calendar year after the year of approval or before any later deadline established by the Director in writing;

(i) all taxes imposed by City in respect of the property being paid when they are due;

(j) the owner of the property not

  (i) being bankrupt or insolvent;

  (ii) going into receivership; or

  (iii) having taken benefit of any statute from time-to-time in force relating to bankrupt or insolvent debtors;

(k) the owner having provided information, including a statutory declaration, to the Director when reasonably required by the Director to enforce or administer this By-law, including information required to determine whether the conditions set out in this section are being met;

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(l) the grant recipient continuing to own the property unless, before title to the property is transferred, the Director has approved an assignment of the person's grant entitlement to the transferee of the property;

(m) no creditor of the owner or any subsequent owner

(i) attaching or garnishing any funds for the development, or

(ii) seizing or encumbering the development or any substantial asset used in connection with the development,

without the prior written consent of the City; and

(n) the current owner complying with all other conditions reasonably imposed by the Director to administer this By-law.

7(3) When approving a grant application, the Director must issue an approval letter (referred to in this By-law as a "Conditional Approval Letter") identifying the proposed affordable housing development and setting out

(a) the name of the grant recipient;

(b) the type and amount of each grant to be provided under this By-law for the development; and

(c) the length of any grants being provided per subsection 4(2).

7(4) The Conditional Approval Letter may also set out any conditions, in addition to those set out in subsection 7(2), that may apply to the approval.

7(5) Subject to the Conditional Approval Letter and any written agreement between the City and the applicant regarding a grant payable to the owner, the conditions in subsection 7(2) continue to apply until

(a) the grant has been paid in full; or

(b) the conditions applicable to the CMHC funding for the development cease to apply;

whichever is later.

7(6) A Conditional Approval Letter may be withdrawn by written notice to the owner if CMHC does not approve funding for the proposed development.

7(7) Once CMHC approves funding for the proposed development, the City is obligated to make grants in accordance with the Conditional Approval Letter unless

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(a) any representation or warranty made by the applicant is false or misleading in a material respect;

(b) in the opinion of the Director, there is a material adverse change in risk in the owner's ability to operate or manage the development;

(c) the development is entirely or substantially destroyed; or

(d) the Director is reasonably of the opinion that

(i) the development is not being managed or operated in accordance with, or

(ii) the property, the development, the owner or a subsequent owner has failed to meet,

any of the terms and conditions that apply to the grants according to this By-law, the Conditional Approval Letter or any subsequent agreement entered into between the owner and the City regarding the grants.

In these circumstances, the Director may cease the payment of grants and withdraw the Conditional Approval Letter by written notice to the owner setting out the reason for doing so.

7(8) If a Conditional Approval Letter is withdrawn under subsection 7(6) or 7(7) in respect an approved property,

(a) that property ceases to be an approved property; and

(b) any money previously committed to the payment of a grant under clause 0(a) or (b) or clause 4(4)(a) or (b) for that property and not yet paid may be committed to the payment of grants under that clause for other approved properties.

7(9) If a property, a development or an owner fails to meet any terms or conditions that apply in respect of development for which a grant has been paid under this By-law, the City may recover all or any part of the grant as a debt owing by the current owner to the City in respect of the property.

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PART 3
ADMINISTRATIVE PROVISIONS

Director may designate employee

8 The Director may, in writing, designate a City employee as a designated officer for the purposes of administering and enforcing this By-law or any part of it.

Powers of designated officer

9(1) The designated officer has the powers of a "designated employee" under the Charter for the purposes of administering and enforcing this By-law.

9(2) Without limiting the powers referred to in subsection 9(1), the designated officer may do the following:

(a) issue a Conditional Approval Letter in accordance with subsection 0 after determining that a proposed development is, or is expected to be, eligible for CMHC funding for affordable housing under the National Housing Strategy;

(b) withdraw a Conditional Approval Letter in accordance with subsection 0;

(c) terminate the payment of grants under a Letter of Intent if satisfied that any of the conditions in subsection 0 has been met;

(d) require the owner of the approved property to provide information or, where appropriate, a statutory declaration, when information is required to determine the owner's entitlement to a grant or continuing grant payments under the Affordable Housing Now Program.

Grants transferable

10 The Director is authorized, prior to the transfer of property in respect of which an application has been made or which has been approved for one or more grants under this By-law, to

(a) approve the transfer of the application to the prospective owner; or

(b) approve the transfer to the prospective owner of the entitlement to receive a grant.

Partnerships for program implementation

11 The Director may seek partnerships with other organizations to assist in the implementation of the Affordable Housing Now Program by soliciting, collecting and assessing applications on behalf of the City and making recommendations for approval to the Director, and such other tasks as may be requested of them by the Director.

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Appeal

12 Where a decision of the Director or a designated officer is subject to appeal under the Charter, the appeal shall be heard by the Standing Policy Committee on Property and Development, Heritage, and Downtown Development.

Coming into force

13 This By-law comes into force upon its enactment by Council.

DONE AND PASSED this day of , 2022.

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Mayor

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City Clerk

Approved as to content:

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Director of Planning, Property and Development

Legally reviewed and certified as to form:

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For Director of Legal Services and City Solicitor

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