

CITY OF NANAIMO

BYLAW NO. 7269

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS Section 483 of the *Local Government Act* provides that Council may enter into a Housing Agreement, which may include terms and conditions agreed to regarding the occupancy of the housing units identified in the Agreement;

AND WHEREAS the Council wishes to enter into such an Agreement with respect to certain housing units located in the City of Nanaimo;

THEREFORE BE IT RESOLVED, the Council of the City of Nanaimo in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as the City of Nanaimo "HOUSING AGREEMENT BYLAW 2018 NO. 7269".
2. The Council of the City of Nanaimo hereby authorizes the Mayor and Corporate Officer to enter into an Agreement, on behalf of the City of Nanaimo, in substantially the form attached hereto as Schedule 'A', which sets out the terms and conditions of the occupancy of the housing units identified in the Agreement. The land identified in the Agreement is legally described as PID 029-624-134 LOT B, SECTION 11, RANGE 8, MOUNTAIN DISTRICT, PLAN EPP51282.
3. Upon execution of the Agreement by the Mayor and Corporate Officer and application of the seal of the City of Nanaimo, this Agreement shall be validly entered into as authorized by this Bylaw.

PASSED FIRST READING: 2018-OCT-01
PASSED SECOND READING: 2018-OCT-01
PASSED THIRD READING: 2018-OCT-01
ADOPTED: 2018-OCT-15

W. B. MCKAY

MAYOR

S. GURRIE

CORPORATE OFFICER

"Schedule A"

HOUSING AGREEMENT

THIS AGREEMENT made this ___ day of October, 2018.

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC
V9R 5J6

(the "City")

OF THE FIRST PART

AND:

PROPERTY OWNER:
PROVINCIAL RENTAL HOUSING CORPORATION
C/O BC HOUSING
1701-4555 Kingsway
Burnaby, BC V5H 4V8

(the "Owner")

OF THE SECOND PART

WHEREAS:

A. The City may, by agreement under section 483 of the *Local Government Act*, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*,

B. The Owner is the registered owner of fee-simple of the lands described as:

Legal Description: *LOT B, SECTION 11, RANGE 8, MOUNTAIN DISTRICT, PLAN EPP51282*

PID: *029-624-134*

Civic Address: 2185 Salmon Road, Nanaimo, BC V9R 6H9

(the "**Land**") and the Owner has requested the City grant permission to develop the Land into a Residential Shelter (as defined below); and

C. The City is willing to grant permission and enter into this Agreement to establish terms and conditions regarding the occupancy of the Residential Shelter identified in the Agreement and the Owner has agreed.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to section 483 of the *Local Government Act* and in consideration of the premises and covenants contained in this Agreement, the parties hereto covenant and agree with the other as follows:

1. DEFINITIONS

In this Agreement, "**Residential Shelter**" shall mean a single-family dwelling used for the purposes of providing temporary housing for residents and providing the following services:

- (a) emergency and support services for persons leaving physically, psychologically or sexually abusive relationships; and/or
- (b) shelter and support services for persons during the immediate post-acute phase of recovery from drug and alcohol dependency or addiction,

but does not include the use of the Land as a halfway house in conjunction with the administration of justice for the purpose of shelter and support services for persons serving or on parole from any part of a sentence (including an unconditional sentence) imposed by a court.

2. MAXIMUM OCCUPANCY

The Owner covenants and agrees that the Land shall be used for the provision of housing for no more than ten (10) unrelated persons.

3. ADMINISTRATION, MANAGEMENT AND NUISANCE

The Owner shall ensure that the Residential Shelter is managed according to the following rules:

- (a) the subject site must remain clear of debris and refuse which would result in an unsightly premises;
- (b) all landscaping, including yards, must be maintained;
- (c) that it will not carry on, or do or allow to be carried on or done on the Land anything that may be or become a nuisance to the City or the public;
- (d) that the Owner, if non-resident in the Residential Shelter, will delegate authority to an operator (the "Operator"). The Operator will be empowered to promptly respond to and address issues that arise from the operation of the Residential Shelter. The Operator will be responsible to bring to the attention of the Owner any issues that arise in a timely manner. Ultimately the responsibility, management and delegation of authority of the the Residential Shelter will reside with the Owner;
- (e) that the Owner will undertake to operate or cause to be operated the Residential Shelter as a good neighbour ensuring that the operation of the Residential Shelter does not detract from the surrounding residents' right to peaceful enjoyment of their homes. The Owner or Operator will regularly seek and give due consideration to feedback received from the neighbours as to the operation and impact of the Residential Shelter. Should it be deemed necessary by the City, the City will require the Owner enter into a Good Neighbour Agreement developed and monitored jointly by the Owner, the Operator, the City and the neighbours; and

- (f) that the Owner will comply or cause compliance with all laws that relate to this Agreement.

4. TERM

Subject to earlier termination in accordance with this Agreement, this Agreement granted shall be for an initial term of one (1) year commencing on the date first written above and ending on the ___th day of October 2019 (the "Term"). As long as the Owner is not in default of the terms and conditions of this Agreement, this Agreement shall be automatically renewed each year, unless:

- a) this Agreement is terminated in accordance with its terms; and
- b) this Agreement is deemed to be terminated pursuant to section 5.

5. TERMINATION

The parties acknowledge and agree that:

- a) notwithstanding any provision to the contrary in this Agreement, if the Owner is in default of its obligations in this Agreement then the City may, by written notice to the Owner require such default to be corrected within thirty (30) days after receipt of such notice or in the case of a default which cannot reasonably be cured within the thirty (30) day period, if the Owner does not take reasonable steps to commence to correct the defect within the said thirty (30) day period and thereafter diligently and continuously proceed with such correction;
- b) if within the thirty (30) days after receipt of such notice the default has not been corrected or reasonable steps to correct the default have not been taken, the City, without limiting any other right it might have, will withdraw the rights it has granted herein and terminate this Agreement. The City will provide to the Owner ninety (90) days written notice of their intent to terminate the Agreement. The City shall not be liable in any way to the Owner for any cost, damage, liability or loss suffered as a result;
- c) the Owner may at any time, by written notice to the City, terminate this Agreement as of a date specified in such notice; and
- d) notwithstanding termination under this section, the City shall be entitled to proceed with the enforcement of any indemnity or other term or condition of this Agreement in satisfaction of any claim, loss, damage or expense of the City arising under this Agreement.

6. INDEMNITY AND RELEASE

- a) The Owner covenants and agrees to indemnify and save harmless the City, its elected officials and appointed officers, employees, contractors, agents, successors and assigns from and against any claim, demand, suit, action, cause of action, liability, damage, loss (including personal injury and death), expense and cost (including all legal fees) arising out of or related to:
 - i. the Owner's breach of this Agreement; and

ii. the Owner's use of the Land.

- b) The Owner shall waive, release and discharge the City, its elected officials, appointed officers, employees, contractors, agents, successors and assigns from and against any claim, suit, action, liability, damage, loss, expense and payment whatsoever whether known or unknown which the the Owner, may now or in the future have against the City arising from or related to the Land.

7. ASSIGNMENT

This Agreement shall not be transferred or assigned by the Owner except where the Owner has transferred or agreed to transfer the Land to a purchaser that agrees to assume the terms and conditions set forth in this Agreement.

8. AMENDMENT

Except as otherwise provided herein, this Agreement shall not be amended without the prior written consent of the parties.

9. BINDING EFFECT

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assignees.

10. NO WAIVER

The waiver by a party or any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

11. NO RELIEF

It is understood, covenanted and agreed by and between the parties hereto that no provision of these presents and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve, or be deemed to relieve, the Owner in any manner whatsoever from any liability to the City with respect to this Agreement, or under the provisions of the *Community Charter*, the *Local Government Act*, or any bylaw of the City and amendments thereto.

12. NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

Notice of this Agreement shall be registered in the *Land Title Act* by the City, at the cost of the Owner, in accordance with section 483 of the *Local Government Act*, and this Agreement shall be binding on all persons who acquire an interest in the Land after registration of this notice.

13. TERMINOLOGY

Wherever singular, masculine or gender neutral terms are used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic, as the context requires.

14. B.C. LAWS GOVERN

This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

CITY OF NANAIMO by its authorized signatories:)
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Mayor, Bill McKay)
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)
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Corporate Officer

PROVINCIAL RENTAL HOUSING)
CORPORATION by its authorized signatories:)
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