

THE CORPORATION OF THE CITY OF VERNON

BYLAW 6040

A Bylaw to authorize a Housing Agreement
for 6545 Okanagan Landing Road

WHEREAS Section 483 of the *Local Government Act* provides that Council may enter into a housing agreement with an owner which may include terms and conditions regarding the occupancy of the housing units identified in the Agreement; and

WHEREAS Council wishes to enter into such an agreement regarding the development and provision of rental housing units on lands located within the City of Vernon;

NOW THEREFORE the Council of the City of Vernon in open meeting assembled enacts as follows:

1. This Bylaw may be cited for all purposes as “**6545 Okanagan Landing Road Housing Agreement Bylaw 6040, 2025**”.
2. The Council of the City of Vernon hereby authorizes the Mayor and Corporate Officer to enter into an agreement with the owner of Lot 1, District Lot 62, ODYD, Plan 9738 on behalf of the City of Vernon, as set out in **Schedule “A”**, attached hereto and forming part of this Bylaw (the “Agreement”).
3. The lands identified in the Agreement are located at 6545 Okanagan Landing Road and are legally described as: Lot 1, District Lot 62, ODYD, Plan 9738.
4. The Mayor and Corporate Officer are authorized to execute any documents required to give effect to the Agreement.

READ A FIRST TIME this
READ A SECOND TIME this
READ A THIRD TIME this

11th day of August, 2025.
11th day of August, 2025.
11th day of August, 2025.

ADOPTED THIS day of, 2025.

Mayor

Corporate Officer

Schedule 'A'
Attached to and forming part of Bylaw 6040
“6545 Okanagan Landing Road Housing Agreement Bylaw 6040, 2025”

PART 2 – TERMS OF INSTRUMENT

SECTION 219 COVENANT
(HOUSING AGREEMENT — AFFORDABLE HOUSING)

THIS AGREEMENT dated for reference _____, 2025.

BETWEEN:

OKANAGAN VILLAGE HOUSING SOCIETY, INC. NO. S0052650
100-3502 27th Avenue,
Vernon, British Columbia V1T 7A1

(the “**Owner**”)

AND:

THE CORPORATION OF THE CITY OF VERNON
3400 - 30th Street
Vernon, British Columbia, V1T 5E6

(the “**City**”)

Background

- A. The Owner is the registered owner of the Lands;
- B. The Owner wishes to develop the Lands to construct a 6-storey, 101 unit multi-family rental building to provide affordable rental housing, together with parking, landscaping, servicing and amenities (the “**Development**”);
- C. The Council of the City has or will enact a bylaw under section 483 of the *Local Government Act* to enter into this Agreement and the section 219 covenant contemplated by this Agreement;
- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the use of land or construction on land;
- E. Section 483 of the *Local Government Act* permits the City, by bylaw, to enter into an agreement in respect to the provision, tenure, management and operation of affordable housing; and
- F. The Owner and the City wish to enter into this Agreement to provide for affordable rental housing on the terms and conditions set out in this Agreement, which is both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*,

Terms of Agreement

In consideration of good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration for the promises exchanged below, the parties covenant and agree as follows:

Part 1. DEFINITIONS AND INTERPRETATION

1. In this Agreement,
 - (a) **"Affordable Housing Unit"** means a Dwelling reserved for use as a Deep Subsidy Unit, a Low and Moderate Income Unit or a Middle Income Unit in accordance with this Agreement;
 - (b) **"Affordable Rent"** means, as the case may be, Rent that BC Housing determines to be affordable for Residents meeting the Deep Subsidy Income Limits, the Low and Moderate Income Limits, from time to time;
 - (c) **"BC Housing"** means the British Columbia Housing Management Commission, and its successors from time to time;
 - (d) **"Building"** means a building constructed on the Lands from time to time;
 - (e) **"CPI"** means the All-Items Consumer Price Index for British Columbia, published from time to time by Statistics Canada, or its successor in function;
 - (f) **"Daily Amount"** means \$100.00 per day as of January 1, 2025 adjusted thereafter by an amount determined by multiplying \$100.00 by the percentage change in the CPI from January 1, 2025 to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 26;
 - (g) **"Deep Subsidy Unit"** means a Dwelling occupied by a Resident whose Income does not exceed the Deep Subsidy Income Limits determined by BC Housing from time to time;
 - (h) **"Dwelling"** means a self-contained residential dwelling in the Development;
 - (i) **"General Instrument"** means the Form C under the Land Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Lands to which these Express Charge Terms are attached;
 - (j) **"Greater Vernon"** means the City of Vernon, the District of Coldstream and electoral areas B and C of the Regional District of North Okanagan;
 - (k) **"Income"** means the total payments received by a Resident from work, social assistance, pensions, interest, assets and other earnings;
 - (l) **"Lands"** means those lands and premises located at 6545 Okanagan Landing Road, Vernon B.C. V1H 1M5, legally described as Lot 1 District Lot 62 Osoyoos Division Yale District Plan 9738, PID: 009-640-461;

- (m) **“Low and Moderate Income Unit”** means a Dwelling occupied by a Resident whose Income does not exceed the Low and Moderate Income Limits determined by BC Housing from time to time;
- (n) **“Middle Income Unit”** means a Dwelling occupied by a Resident whose Income does not exceed the Middle Income Limits determined by BC Housing from time to time;
- (o) **“Owner”** includes any person who is a registered owner of the Lands from time to time;
- (p) **“Person”** includes an individual, corporation, body corporate, partnership, joint venture, association, trust, or unincorporated organization or any trustee, executor, administrator, or other legal representative thereof;
- (q) **“Prime Rate”** means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vernon, British Columbia for Canadian dollar loans and designated by the Royal Bank of Canada from time to time;
- (r) **“Rent”** means the monthly amount that a Resident (as a tenant) must pay to the Owner (as a landlord) to occupy a Dwelling;
- (s) **“Resident”** means the person or persons meeting the eligibility requirements set out in Part 2 and occupying an Affordable Housing Unit pursuant to a Tenancy Agreement and
- (t) **“Tenancy Agreement”** means an agreement, lease, license or other right under which a Resident may occupy a Dwelling.

2. In this Agreement,

- (a) references to Deep Subsidy Income Limits, Low and Moderate Income Limits and Middle Income Limits shall mean references to those income limits published by BC Housing from time to time;
- (b) any reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (c) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) any reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (f) any reference to any enactment is a reference to that enactment as consolidated revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) the provisions of Section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (h) time is of the essence of this Agreement;
- (i) all provisions are to be interpreted as always speaking;

- (j) any reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receiver;
 - (k) any reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the same case may be, unless otherwise expressly provided; and
 - (l) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.
3. This Agreement may be modified or amended from time to time, by bylaw duly passed by the Council of the City and signed by the parties.
 4. This Agreement, and any documents signed by the Owner contemplated by this Agreement, represents the whole agreement between the City and the Owner respecting the use and occupation of the Affordable Housing Units, and there are no warranties, representations, conditions or collateral agreements made by either party except as set out in the Agreement.
 5. If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
 6. The laws of British Columbia will apply to this Agreement and all statutes referred to in this Agreement are enactments of the Province of British Columbia. Without limiting the foregoing, in the event of any conflict between any provision of this Agreement and the *Residential Tenancy Act*, this Agreement is without effect to the extent of the conflict.

Part 2. DESIGNATION OF AFFORDABLE HOUSING UNITS; ELIGIBILITY OF RESIDENTS

7. All Dwellings contained in the Development from time to time will be used only as Affordable Housing Units for Residents at Affordable Rent.
8. The Owner will make all reasonable efforts to achieve the following:
 - (a) 30% of Dwellings to be Middle Income Units;
 - (b) 50% of Dwellings to be Low and Moderate Income Units; and
 - (c) 20% of Dwellings to be Deep Subsidy Units.
9. The Owner will determine if a prospective Resident is eligible to occupy an Affordable Housing Unit based on the following criteria:
 - (a) households with Income not exceeding the Middle Income Limits are eligible for housing in Middle Income Units;
 - (b) households with Income not exceeding the Low and Moderate Income Limits are eligible for housing in Low and Moderate Income Units;
 - (c) households with Income not exceeding the Deep Subsidy Income Limits are eligible for housing in Deep Subsidy Units; and

- (d) the prospective Resident must have resided in Greater Vernon for a minimum period of twelve months prior to occupying the Affordable Housing Unit; provided, however, if an individual the prospective Resident does not meet the foregoing criteria but has significant needs and requires proximity to services, that prospective Resident will not be required to meet this component of the eligibility requirements, and

in determining a prospective Resident's eligibility, the Owner, so long as it acts honestly and in good faith, is entitled to rely on all information provided by the prospective Resident and the Owner will have no liability if the prospective Resident intentionally or unintentionally provides any incorrect information.

- 10. Notwithstanding section 9, the following persons may occupy an Affordable Housing Unit as a Resident:
 - (a) persons designated by agreement between the City and the Owner; and
 - (b) employees of the Owner and other authorized personnel required to operate and maintain the Building.
- 11. The Owner shall provide to the City, on the 1st day of February in each calendar year, a report in writing confirming all Dwellings are being rented in accordance with this Agreement, together with such other information as may be reasonably requested by the City from time to time.
- 12. Subject to section 10, the Owner will not rent Affordable Housing Units to any person that does not meet the eligibility criteria in section 9.

Part 3. USE AND OCCUPANCY OF RENTAL HOUSING UNITS

- 13. The Owner will not lease, rent, license or permit occupancy of an Affordable Housing Unit except as follows:
 - (a) to a Resident;
 - (b) at Affordable Rent;
 - (c) as a permanent residence; and
 - (d) pursuant to a Tenancy Agreement.
- 14. The Owner will include in the Tenancy Agreement a clause that prohibits the Tenancy Agreement from being assigned or the Affordable Housing Unit from being sublet.
- 15. The Tenancy Agreement will identify all occupants of the Affordable Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing in the Affordable Housing Unit for more than 30 consecutive days or more than 45 days total in any calendar year.
- 16. Subject to notice requirements under the *Residential Tenancy Act*, the Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if one or more of the following occurs:
 - (a) the tenant is not an Eligible Resident;

- (b) the Affordable Housing Unit is occupied by a number of occupants that exceeds the number of individuals that the City's building inspector determines may reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;
 - (c) the Affordable Housing Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of Rent;
 - (d) the Affordable Housing Unit is sublet; or
 - (e) the Tenancy Agreement is assigned.
17. The Owner will not itself occupy any of the Affordable Housing Units.
 18. The Owner will not charge rent higher than Affordable Rent for the use of an Affordable Housing Unit.
 19. The Owner will ensure that the number of individuals who permanently reside in an Affordable Housing Unit must be equal to or less than the number of individuals the City's building inspector determines may reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City.
 20. The Owner will deliver a true copy of the Tenancy Agreement to the City upon request.

Part 4. MANAGEMENT AND OPERATION

21. The Owner will furnish good and efficient management and operation of the Development and the Affordable Housing Units and will permit representatives of the City to inspect the Development and the Affordable Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.
22. The Owner will maintain the Development and the Affordable Housing Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.
23. The Owner will not assign or delegate management and operation of the Affordable Housing Units to any entity, except with the prior written consent of the City. In considering whether to provide consent, the City will be entitled to consider (without being exhaustive) whether the proposed entity is a society or a non-profit organization experienced in providing affordable housing.

Part 5. CITY INQUIRIES AND INSPECTIONS

24. On or before the first day of February in each calendar year and from time to time at the request of the City, the Owner will deliver to the City:
 - (a) such supporting documents, including a statutory declaration sworn by a Resident, as the City may reasonably require confirming that the Resident meets the eligibility requirements of Part 2; and

- (b) a report in writing confirming that all Affordable Housing Units that are rented at the time are being rented in accordance with this Agreement, together with such other information as may be reasonably requested by the City from time to time.
- 25. The Owner hereby irrevocably authorizes the City to make such inquiries as the City reasonably considers necessary in order to confirm the Owner is complying with this Agreement and irrevocably authorizes and directs the recipient of the request for information from the City to provide such information to the City.
- 26. The Owner will permit representatives of the City to inspect the Development and the Affordable Housing Units for compliance with this Agreement at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.

Part 6. DEFAULT AND REMEDIES

- 27. In addition to any other remedies available to the City under this Agreement or at law or equity, if an Affordable Housing Unit is used or occupied in breach of this Agreement the Owner will pay to the City the Daily Amount for every day that the breach continues after 30 days written notice from the City to the Owner stating the particulars of the breach or, if such breach cannot, using reasonable efforts, be remedied within 30 days, such longer period as may reasonably be required to remedy such breach. The Daily Amount will be increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CPI during the immediately preceding calendar year. The Daily Amount is due and payable immediately upon receipt by the Owner of an invoice from the City for the same.
- 28. The Owner acknowledges and agrees that damages are not an adequate remedy for breach of the covenants contained in this Agreement and that, in the event of any such breach, the City will be entitled to apply to a Court of competent jurisdiction for an order restraining and prohibiting the continuance of any such breach.
- 29. All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

Part 7. DEMOLITION OF AN AFFORDABLE HOUSING UNIT

- 30. The Owner will not demolish an Affordable Housing Unit unless:
 - (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Affordable Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the Building is damaged or destroyed, to the extent of 40% or more of their value above its foundations, as determined by the City in its sole discretion, anda demolition permit for the Affordable Housing Unit or the Building, as the case may be, has been issued by the City (unless the Affordable Housing Unit has been destroyed by an accident, act of

God, or sudden and unanticipated force) and the Affordable Housing Unit or the Building is to be demolished in accordance with that permit.

31. Following demolition of an Affordable Housing Unit or the Building, the Owner will use and occupy any replacement Affordable Housing Unit in compliance with this Housing Agreement, and this Agreement will apply to the construction of any replacement Affordable Housing Unit to the same extent and in the same manner as the original Affordable Housing Unit. The replacement Affordable Housing Unit must be approved by the City as an Affordable Housing Unit in accordance with this Agreement.

Part 8. MISCELLANEOUS

32. The Owner acknowledges and agrees that this Agreement constitutes a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 483 of the *Local Government Act*.
33. The Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:
 - (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
 - (b) the Owner's construction, maintenance, ownership, lease, operation, management or financing of the Lands, the Development or any Affordable Housing Unit;
 - (c) without limitation, any breach of this Agreement by the Owner; and
 - (d) the exercise by the City of any of its rights under this Agreement.
34. The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for:
 - (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
 - (b) the Owner's construction, maintenance, ownership, lease, operation, management or financing of the Lands, the Development or any Affordable Housing Unit;
 - (c) any breach of this Agreement by the Owner; and
 - (d) the exercise by the City of any of its rights under this Agreement.
35. This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
 - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.
- 36. Notwithstanding section 35, the Lands will not be subdivided pursuant to the *Land Title Act*, the *Strata Property Act*, or by means of a leasehold subdivision, and will not be organized as “cooperative interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*.
- 37. The Owner and the City agree that:
 - (a) this Agreement is entered into only for the benefit of the City;
 - (b) this Agreement is not intended to protect the interests of the Owner, any Resident, or any future owner, lessee, occupier or user of the Lands, the Development or any Affordable Housing Unit; and
 - (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
- 38. Any notice, request or demand provided for in this Agreement will be in writing and sufficiently given if served personally upon the party for whom such notice was intended, or, if mailed by registered mail to the addresses set out above or to such other address as a party may notify the other in accordance with this section. All notices given by mail under this section will be deemed to be received three days following its posting, if posted at Vernon, British Columbia, provided that after the time of posting there will be any slowdown, strike or labour dispute which might affect the delivery of notice by mail, then such notice will only be effective if actually delivered. Either party may, at any time, give notice in writing to the other of any change of address and thereafter all notices will be mailed to the new address so given.
- 39. This Agreement will enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, representatives, successors and assigns.
- 40. Each of the parties will, on demand by another party execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other may reasonably require to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.
- 41. This Agreement runs with the Lands and every parcel into which it is Subdivided. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Lands.

42. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
43. Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.
44. The Owner will do everything necessary to ensure this Agreement is registered against the Lands in priority to all financial charges and encumbrances which may have been registered against the Lands, excepting those specifically approved in writing by the City or in favour of the City.
45. The Owner acknowledges the City must file a notice under Section 483(5) of the *Local Government Act* against the title to the Lands.
46. Nothing in this Agreement will constitute the Owner as the agent, joint venture, or partner of the City or give the Owner any authority to bind the City in any way.
47. By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the date first written above on one or more pages of the General Instrument.

**OKANAGAN VILLAGE HOUSING SOCIETY,
INC.NO. S0052650**

THE CORPORATION OF THE CITY OF VERNON

Authorized Signatory

Mayor

Authorized Signatory

Corporate Officer