

CITY OF NANAIMO

BYLAW NO. 7437

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

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

WHEREAS Council wishes to enter into an agreement pursuant to section 483 of the *Local Government Act* with respect to lands within the boundaries of the City, located at 3425 Uplands Drive and legally described as LOT C DISTRICT LOT 18 WELLINGTON DISTRICT PLAN EPP114091 (PID: 031-897-576) (the "Lands"); and

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

1. Title

This Bylaw may be cited as the "Housing Agreement Bylaw 2026 No. 7437".

2. The Council of the City authorizes the Mayor and Corporate Officer to enter into a housing agreement (the "Phase 2 Housing Agreement") with the owner of the Lands, 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 housing units that will be constructed on the Lands and are identified in the Phase 2 Housing Agreement.
3. Upon execution of the Phase 2 Housing Agreement by the owner of the Lands, Mayor and Corporate Officer, and application of seal of the City of Nanaimo, this Agreement will be validly entered into as authorized by this Bylaw.
4. Once entered into, the Corporate Officer may cause notice of the Phase 2 Housing Agreement to be registered on title to the Lands.

PASSED FIRST READING: 2026-JAN-19
PASSED SECOND READING: 2026-JAN-19
PASSED THIRD READING: 2026-JAN-19
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE A
TERMS OF INSTRUMENT - PART 2
SECTION 219 COVENANT AND PHASE 2 HOUSING AGREEMENT

THIS AGREEMENT, dated this ____ day of _____ 2026

BETWEEN:

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

(the “**City**”)

AND:

NANAIMO ASSOCIATION FOR COMMUNITY LIVING, INC.NO.
S0021542
C/O 96 CAVAN STREET
NANAIMO, BC
V9R 2V1

(the “**Grantor**”)

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 use and occupancy of the dwelling 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 Grantor is the registered owner in fee-simple of the lands described as:

PID 031-897-576; LOT C DISTRICT LOT 18 WELLINGTON DISTRICT PLAN EPP114091 (the “**Land**”);
- C. The Grantor wishes to develop 49 Dwelling Units as part of the second phase of a housing development on the Land, as generally shown on Schedule A (the “**Phase 2 Development**”);
- D. Section 483 of the *Local Government Act* authorizes the City, by bylaw, to enter into a Housing Agreement;

- E. 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 subdivision of land, use of land or construction on land;
- F. The City and the Grantor wish to enter into this agreement ("**Agreement**") to restrict the subdivision of the Land, and the use of and construction on the Land, on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to Section 483 of the *Local Government Act* and Section 219 of the *Land Title Act* and in consideration of the premises and covenants contained in this Agreement, the parties hereto covenant and agree with the other as follows:

1.0 INTERPRETATION

1.1 The following words and terms have the following meanings:

- a) "Affordable Unit" means a Dwelling Unit which is identified as an Affordable Unit in clause 2.2;
- b) "Consumer Price Index" means the All-Items Consumer Price Index for British Columbia as calculated by Statistics Canada, or its successor in function;
- c) "Dwelling Unit" means a habitable self-contained unit with cooking, sleeping, and sanitary facilities and a separate entrance that is for the residential accommodation of only one family;
- d) "Eligible Operator" means the government of British Columbia, the government of Canada, a local government, a Public Housing Authority, or a not-for-profit corporation incorporated under the *Societies Act*, SBC 2015, c18, or the *Not-for Profit Corporation Act*, SC 2009, c23, and any enactments that replace them;
- e) "Eligible Tenant" means person or group of cohabiting persons whose collective annual before-tax income does not exceed the most current Housing Income Limits for Nanaimo published by British Columbia Housing Management Commission, or its successors in function, at the time the person or group of cohabiting persons takes occupancy of the Affordable Unit; and
- f) "Final Occupancy Date" means the date upon which the entirety of the Phase 2 Development has been approved for occupancy by the building inspector for the City of Nanaimo.

2.0 OCCUPANCY and USE OF AFFORDABLE UNITS

- 2.1 The Grantor covenants and agrees pursuant to section 219 of the *Land Title Act* that the Land must not be subdivided by any means whatsoever.
- 2.2 The Grantor covenants and agrees pursuant to section 483 of the *Local Government Act* that all Dwelling Units within the Phase 2 Development are Affordable Units and are subject to the following terms and conditions:
 - 2.2.1 A Dwelling Unit may only be rented or leased to and occupied by an Eligible Tenant;
 - 2.2.2 The maximum permitted monthly rent for a Dwelling Unit must not exceed 1/12 of 30% of the Eligible Tenant's collective before-tax annual income; and
 - 2.2.3 Dwelling Units must only be administered and managed by an Eligible Operator.

3.0 ANNUAL REPORT

- 3.1 The Grantor further covenants and agrees that during the term of this Agreement, it will, commencing on the first anniversary of the Final Occupancy Date is issued for the Phase 2 Development on the Land, and on that anniversary date annually thereafter, provide to the City's Director of Planning & Development a report in writing and in a form acceptable to the City's Director of Planning & Development confirming that the Affordable Units continue to be used and occupied as required under this Agreement.

4.0 BINDING EFFECT

- 4.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, administrators and permitted assignees.

5.0 ENFORCEMENT AND WAIVER

- 5.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed and delivered by the Grantor. The waiver by a party of 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.

- 5.2 The parties agree that the City is not obligated to inspect the Land or to otherwise ensure compliance with this Agreement, nor is the City obligated to remedy any default of this Agreement. A failure by the City to enforce this Agreement shall not constitute a waiver of any of the City's rights hereunder.
- 5.3 No remedy under this Agreement is deemed to be exclusive but will, where possible, be cumulative with all other remedies available at law or in equity.
- 5.4 The Grantor covenants and agrees that, in addition to any remedies that are available under this Agreement or at law, the City is entitled to all equitable remedies, including specific performance, injunction and declarative relief to enforce its rights under this Agreement. The Grantor acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Grantor under this Agreement.
- 5.5 The Grantor acknowledges that the City requires the Affordable Units for the benefit of the community. The Grantor therefore agrees that for each day the Land is occupied in breach of this Agreement, the Grantor must pay the City \$100.00 (the "**Daily Amount**") as liquidated damages and not as a penalty, due and payable at the offices of the City on the last day of the calendar month in which the breach occurred. The Daily Amount is increased on January 1 of each year by the amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the Consumer Price Index. The Grantor agrees that payment may be enforced by the City in a court of competent jurisdiction as a contract debt.
- 5.6 By this section, the Grantor grants to the City a rent charge under section 219 of the *Land Title Act*, and at common law, securing payment by the Grantor to the City of the Daily Amount as described in section 5.5. The City agrees that enforcement of the rent charge granted by this section is suspended until the date that is thirty (30) days after the date on which any amount due under section 5.5 is due and payable to the City in accordance with section 5.5. The City may enforce the rent charge granted by this section by an action for an order for sale or by proceedings for the appointment of a receiver.
- 5.7 The Grantor must cause this Agreement to be registered in the applicable land title office against title to the Lands with priority over all financial liens, charges, encumbrances, leases, and options to purchase, registered or pending registration at the time of application for registration of this Agreement.
- 6.0 **NOTICE TO BE REGISTERED IN LAND TITLE OFFICE**

6.1 Notice of this Agreement shall be registered in the *Land Title Office* by the City at the cost of the Grantor in accordance with Section 483 of the *Local Government Act*, and as a covenant in accordance with Section 219 of the *Land Title Act*.

7.0 **TERMINOLOGY**

7.1 Wherever the singular, masculine or neuter 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.

8.0 **BC LAWS GOVERN**

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

As evidence of their intention and agreement to be bound by this Agreement, the parties hereto have executed the General Instrument – Part 1 (Land Title Act Form C) which is attached to and forms part of this Agreement.

SCHEDULE A – PHASE 2 DEVELOPMENT

