

Region of Waterloo

Corporate Services

Corporate Finance

To: Regional Council

Meeting Date: October 25, 2023

Report Title: Bill 134, Affordable Homes and Good Jobs Act, 2023

1. Recommendation

That the Regional Municipality of Waterloo endorse and submit to the Minister of Municipal Affairs and Housing the comments on the Proposed Regulatory Matters Pertaining to the Development Charges Act as set out in report COR-CFN-23-033 dated October 25, 2023.

2. Purpose / Issue:

Through Bill 134 “The Affordable Homes and Good Jobs Act” the Province is proposing a new definition of “affordable” housing for the purposes of exemptions for private developers from development charges under the Development Charges Act. The purpose of this report is to explain the implications for the Region and provide comments for the Province’s consideration.

3. Strategic Plan:

This report supports strategic objectives in the Corporate Strategic Plan, and particularly the Equitable Services and Opportunities and Homes for All priorities.

4. Report Highlights:

- On September 28, 2023 the Minister of Municipal Affairs and Housing (MMAH) introduced Bill 134 “The Affordable Homes and Good Jobs Act”, 2023, which proposes to amend the definition of “affordable” housing originally proposed (but not yet proclaimed) through Bill 23, The More Homes Built Faster Act 2022, for the purposes of exemptions for private developers from development charges under the Development Charges Act, 1997.
- Comments may be submitted through Ontario’s Regulatory Registry on or before October 28, 2023.
- While staff feel that the proposed definition is an improvement over what was originally proposed through Bill 23, there remain concerns with the proposed

definition relating to the lack of provisions for eligibility or income limits, unit size or dwelling type, and a municipally rather than regionally based calculation.

- Development charge exemptions are currently in effect for residential premises developed by a not-for-profit housing developer or a not-for-profit housing co-op.

5. Background:

On September, 28, 2023, the Minister of Municipal Affairs and Housing (MMAH) introduced Bill 134 “The Affordable Homes and Good Jobs Act”, 2023, which proposes a new definition of “affordable” housing for the purposes of exemptions for private developers from development charges under the Development Charges Act. The exemptions and discounts for “affordable” and “attainable” housing were first enacted on November 28, 2022 pursuant to Bill 23 but are not yet in force. Bill 134 does not address “attainable” housing that is to be further defined by way of criteria that are to be prescribed by regulation at a future date.

This proposal, if implemented, takes an alternate approach to defining affordability more in line with the current Provincial Policy Statement (PPS) and Regional Official Plan (ROP). The proposed definition focusses on the ability of households to pay, as opposed to only looking at what the market is asking. The changes, if adopted, will provide an exemption from development charges for those private sector developments which meet the new definitions.

The proposed definitions would be based on determinations of average market rents and purchase prices, as well as incomes for a local municipality that the Minister would make in the “Affordable Residential Units for the purposes of the Development Charges Act” bulletin, which has not yet been released. Based on those definitions, “affordable” will be:

- For non-rental units, the price is no greater than the lesser of:
 - A price for which the cost of accommodation is less than 30% of the 60 percentile of income for households in the municipality, or
 - 90% of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.
- For rental units, the rent is no greater than the lesser of:
 - 30% of the 60 percentile of income for rental households in the municipality, or
 - The average market rent set out in the Affordable Residential Units bulletin.

Bill 23 had originally proposed that “affordable” be defined solely based on market prices and rents that were no greater than 80% of the average purchase price or market rent, as defined by the Ministry. There is also language added to the Development

Charges Act, through Bill 23, that prescribes that municipalities and developers will enter into agreements with respect to affordable units that will keep the units affordable for a period of 25 years. MMAH may establish standard forms for these agreements. This section has yet to be proclaimed.

Staff have identified some concerns with the proposed changes through Bill 134:

- There are no provisions regarding eligibility or income limits for households to occupy these units to ensure that the units are offered to households in financial need for these units.
- “Affordability” is not further defined by unit size (number of bedrooms in a unit) or dwelling type, so the definition will likely favour studio and one-bedroom units over larger family-oriented housing.
- The PPS and ROP definitions are based on the “regional market area”, while the proposed definitions use data for the “municipality”. This will likely result in different definitions of “affordability” by area municipality and may vary the degree of success the proposed changes have in creating affordable housing by the private sector by municipality.

What remains unclear is how “attainable housing”, which is also proposed to be exempt from development charges, is to be further defined by way of criteria that are to be prescribed by regulation.

Through Bill 23, all “non-profit” housing developments are exempt from development charges where a “non-profit housing development” means the development of a building or structure intended for use as a residential premises and developed by:

(a) a corporation to which the *Not-for-Profit Corporations Act, 2010* applies, that is in good standing under that Act and whose primary object is to provide housing,

(b) a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing, or

(c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act, 2022*, c. 21, Sched. 3, s. 4

The provisions in the Development Charges Act, 1997 relating to rental, non-profit, affordable, and attainable housing are as set out in the table below:

DCA section	Housing type	Definition or criteria to be met	Statutory DCA provisions
4.2	Non-profit housing	Developed by a not-for-profit housing developer or a not-for-profit housing co-op	Exempt from DCs (in effect now)
4.1	Affordable housing built by private developers	<p>For non-rental units, the price is no greater than the lesser of:</p> <ul style="list-style-type: none"> • A price for which the cost of accommodation is less than 30% of the 60 percentile of income for households in the municipality, or • 90% of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin. <p>For rental units, the rent is no greater than the lesser of:</p> <ul style="list-style-type: none"> • 30% of the 60 percentile of income for rental households in the municipality, or • The average market rent set out in the Affordable Residential Units bulletin. 	Exempt from DCs (once proclaimed)
26.2	Rental Units	Development of a building or structure with four or more residential units all of which are intended for use as rented residential premises	DCs discounted (in effect now): 15% 1BR 20% 2BR 25% 3+BR
4.1	Attainable housing	TBD	Exempt from DCs (once defined and proclaimed)

6. Communication and Engagement with Area Municipalities and the Public

Given the limited time from the introduction of Bill 134 on September 28, 2023, staff have not had an opportunity to undertake meaningful engagement on the proposed changes. Staff have had some initial conversations with Area Municipal staff, and a draft copy of this report was distributed to Area Treasurer's for review and comment.

7. Financial Implications:

Development charges are used, to the extent permitted under the Development Charges Act, to fund a portion of the cost of growth-related capital works as set out in each year's capital budget. Any exemptions to development charges provided through the legislation impacts a municipality's ability to fund growth-related infrastructure. The extent of the impact of the proposed legislation is difficult to determine at this time.

8. Conclusion / Next Steps:

Subject to Council approval, staff will submit comments to Ontario's Regulatory Registry by the October 28, 2023 deadline as set out in this report. Staff will continue to work with Area Municipal colleagues to coordinate approaches to assist with the creation of affordable housing.

9. Attachments:

Appendix A: Bill 134, Affordable Homes, Good Jobs Act, 2023

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