

**To: Mayor and Members of Council**

**From: Jamie Tellier, Director of Community Planning**

**Date: October 27, 2023**

**Re: ERO Posting 019-7669  
Review of proposed changes to the definition of an “Affordable Residential Unit”  
in the Development Charges Act, 1997, for the purpose of municipal  
development-related charge discounts and exemptions.**

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On September 28<sup>th</sup>, the Minister of Municipal Affairs and Housing introduced [Bill 134: Affordable Homes, Good Jobs Act, 2023](#). Schedule 1 of Bill 134 proposes to amend subsection 4.1 of the Development Charges Act, 1997, to change the definition of an “Affordable Residential Unit” for the purpose of discounting and exempting these units from municipal development-related charges (MDRCs). MDRCs are development charges, community benefit charges and parkland dedication requirements. The proposed new definition would be based on the existing definition of affordable housing in the Provincial Policy Statement (PPS), 2020, which considers local income in addition to market prices. The proposed new definition would consider the housing costs that are affordable for households that, in the Minister of Municipal Affairs and Housing’s opinion, are in the 60th percentile of gross annual income in the applicable local community.

The exemptions and discounts to affordable housing units were first enacted on November 28, 2022, through Bill 23: *More Homes, Built Faster Act, 2022* but are not yet in force. Bill 134 is currently posted on the [Environmental Registry of Ontario \(ERO\) 019-7669](#) for consultation with the consultation period ending on October 28<sup>th</sup>.

#### Details of the Proposed Definition of “Affordable Residential Unit”

##### **Ownership Units**

The price is not greater than the lesser of:

- A price for which the cost of accommodation is less than 30% of the 60<sup>th</sup> percentile of income for the households in the municipality as determined by the Minister of Municipal Affairs and Housing. Or,
- 90% of the average purchase price identified for the residential unit set out in the Affordable Residential Units Bulletin.

##### **Rental Units**

The rent is no greater than the lesser of:

- 30% of the 60<sup>th</sup> percentile of income for rental households in the municipality as determined by the Minister of Municipal Affairs and Housing. Or,
- The average market rent set out in the Affordable Residential Units Bulletin.

## Affordable Residential Units Bulletin

Bill 23 introduced the “Affordable Residential Units for the Purposes of the *Development Charges Act, 1997* Bulletin” through Subsection 4.1(5) and (6) of the *Development Charges Act, 1997* which identified that this bulletin would be “*amended from time to time and published by the Minister of Municipal Affairs and Housing on a website of the Government of Ontario*”. To date, a bulletin has yet to be published. The new definitions above, rely on the Affordable Residential Units Bulletin to define thresholds for the definitions, such as average purchase price and cost of accommodations.

### Review of the proposed definition of “Affordable Residential Unit”

- The proposed revisions to the definition of an “Affordable Residential Unit” more closely aligns with the definition of affordable currently found within the Provincial Policy Statement (PPS), 2020. The proposed definition considers both market factors and household income. This proposed definition shifts the focus towards the ability of households to pay for housing rather than basing the definition solely on what the market is asking. However, given that the specific affordability thresholds are unknown and will be identified in a future bulletin published by the Minister of Municipal Affairs and Housing, it is extremely difficult to provide an informed submission at this time.
- One difference between the PPS, 2020 definition of “affordable” and the definition of an “affordable residential unit” proposed through Bill 134 is that this definition considers only what is affordable to households in the 60<sup>th</sup> percentile while the PPS, 2020 definition considers “low and moderate income households” in determining affordability. This definition considers “*household incomes in the lowest 60 percent of the income distribution*” rather than households with household incomes in the 60<sup>th</sup> percentile *only*. Given that the proposed changes to the PPS,2020 propose removing both the definition of “affordable” and “low and moderate income households” the consideration of low income households (those below the 60<sup>th</sup> percentile) risk being lost entirely.
- Without understanding what will be in the Affordable Residential Units Bulletin it is not clear what the ultimate financial impacts could be resulting from Bill 134. More information is required about the Bulletin and how it will determine “At Market Rate (AMR)” for rental units and “average purchase price” for ownership units. As well as how often the bulletin will be updated, what data sources will be used and whether it will be based on geographic locations, unit type and number of bedrooms.
- For affordable households, the rent would be established at 30% of household income, and purchase price at accommodation costs equal to 30% of income. A definition of accommodation costs is not provided in the legislation and will be informed by the Minister’s bulletin. The basis for calculating accommodation costs is unclear, and carrying costs need to reflect representative costs of home ownership, including typical mortgage costs, property taxes, and property insurance, as well as condominium fees, where applicable.
- Bill 134 would appear to provide exemptions for ownership affordable residential units that would align with household income rather than market value. In Burlington’s case, the [City of Burlington’s Housing Needs and Opportunities Report](#) (HNO), would indicate that in 2021, the average purchase price of a home would need to be reduced by approximately 47% in order to be considered “affordable” to households with a household income in the 60<sup>th</sup> percentile, it is likely that in 2023, a greater reduction would be required. Given the substantial reduction that would be required in order to meet the affordability threshold for a household in the 60<sup>th</sup> percentile, it is unlikely that the costs recovered through a DC exemption would be an effective tool for incentivization.
- The proposed revised definition increases the rent at which a residential unit would be considered affordable compared to the current *Development Charges Act* definition. Based on the findings of the [City of Burlington’s Housing Needs and Opportunities Report](#), Burlington’s average market rent is consistently lower than the affordable rent as described in Bill 23 (based on the 60<sup>th</sup> percentile average household income). This could result in more rental units meeting the threshold to receive

the exemption relative to the wording provided in Bill 23 and may serve to provide a greater incentive for the construction of purpose built rental units at average market rate (AMR).

- While Bill 134 is anticipated to incentivize purpose-built rental, it may not be likely to incentivize rental units that would be affordable to households in the lower income deciles (below the 60<sup>th</sup> percentile) by unintentionally creating a threshold for affordability at the 60<sup>th</sup> percentile. This would likely cause rental units to continue to be out of reach for most moderate to low income households in Burlington.
- While the PPS, 2020 provides an appropriate definition for the determination of what is affordable for each household type by income, this definition was not prepared with the intent of serving as a tool to determine the threshold to exempt fees for the purposes of incentivizing the development of more affordable ownership and rental units. The use of this definition may have unintended consequences such as creating a threshold at the 60<sup>th</sup> percentile that results in limited consideration of low and moderate income households below the 60<sup>th</sup> percentile. In Burlington, in 2021, the average household income in the 60<sup>th</sup> percentile was \$123,911.
- The City's DC and CBC by-laws currently exempt non-profit housing developments, however upon Royal Proclamation, this exemption would extend to Parkland Dedication and would expand to exempt affordable residential units as defined in the DCA. Exemption of any kind increases pressure on the city property tax base for cost recovery of capital projects. The significant changes made to the *Development Charges Act, 1997*, through Bill 23 substantially limited the ability of municipalities to generate the revenue in a timely manner to support the development and growth of complete communities. Municipalities and the Provincial government will need to work collaboratively to identify additional tools, resources and appropriate funding sources to address this gap.
- The introduction of the income test for affordable residential units will increase municipal administration costs of agreements and the requirement to ensure these units remain affordable over a 25-year period. Burlington continues to support the long-term objective of housing affordability but identify that where a municipality is not the Housing Services Provider, these administrative burdens will be cumbersome and will need to be monitored and coordinated by both upper-tier and lower-tier municipalities.
- There is no evidence to support that reducing development related fees is an appropriate tool to improve housing affordability. The reduction in revenue that supports capital funding addressing growth related projects rather, will increase the burden on existing taxpayers which in itself reduces housing affordability. Even if successful in incentivizing housing, the type of unit may not achieve the desired mix of housing in a specific municipality and will not likely incentivize the missing middle. If the Province wants to provide financial assistance to promote affordability it is better suited to be administered through grant, incentive or rebate programs. A grant program also provides flexibility to alter terms and conditions if objectives are not being met, financial capacity is too burdensome or, if resident's economic circumstances change.
- The reduction of development related fees historically shouldered by the for-profit housing sector will result in losses to the funding of municipal services, in the absence of other funding sources such as funding support from the Provincial government, the cost must then be passed on to tax-payers, increasing their cost of living. Municipalities will require support from the Province in order to find locally appropriate, innovative ways to build more homes faster and that are affordable and attainable for Burlington's residents.

## Conclusion

The proposed changes to the definition of “affordable residential unit” in the *Development Charges Act, 1997*, propose a definition of “affordable” that more closely aligns with the definition in the PPS, 2020 to focus more on the ability of households to pay for housing rather than basing the definition solely on what the market is asking. However, this definition does not consider households with a household income below the 60<sup>th</sup> percentile and is unlikely to incentivize rental and ownership units that would meet the needs of Burlington’s moderate and low-income residents. For context, in 2021, households in the 60<sup>th</sup> percentile earned an average household income of \$123,911 per year. Further, in the absence of more information about how the Affordable Residential Units for the Purposes of the *Development Charges Act, 1997* Bulletin will be prepared, it is difficult to determine the full fiscal impact of the proposed change and to provide a fully informed submission at this time. Staff will be submitting these comments to the ERO in advance of the October 28, 2023, commenting deadline.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Alison Enns".

For:

Jamie Tellier, MCIP, RPP  
Director of Community Planning  
Community Planning Department