



## REPORT

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**TO:** Mayor Lawlor and Members of Council

**FROM:** Moya Leighton, Treasurer

**DATE:** March 3, 2025

**REPORT NO.:** CS-2025-003

**SUBJECT:** Implementation of the Affordable Housing Exemption under the Development Charges Act, 1997

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### RECOMMENDATION:

THAT Report No. CS-2025-003 dated March 3, 2025 regarding Implementation of the Affordable Housing Exemption under the Development Charges Act, 1997 be received;

AND FURTHER THAT the Town Treasurer be authorized to enter into Tri-Party Agreements and ancillary documents with Developers and the Regional Municipality of Halton for an affordable residential unit development charge (DC) exemption under Section 4.1 of the Development Charges Act, 1997, with terms and conditions consistent with Report No. CS-2025-003;

AND FURTHER THAT the Town Treasurer be authorized to sign a memorandum of understanding and ancillary documents, with the Regional Municipality of Halton and the three other local municipalities setting out the conditions for local administration of the affordable residential unit development charge (DC) exemption, as outlined in Report No. CS-2025-003;

AND FURTHER THAT the Town Clerk forward a copy of Report No. CS-2025-003 to the Regional Municipality of Halton, The City of Burlington, The Town of Milton, and the Town of Oakville, for information.

### KEY POINTS:

The following are key points for consideration with respect to this report:

- On October 25, 2022, the Province introduced Bill 23, *More Homes Built Faster Act, 2022* which proposed the introduction of a mandatory development charges

exemption for affordable (rental and ownership), and attainable residential units, under a new section 4.1 of the *Development Charges Act, 1997*. In addition, changes were also made to the *Planning Act R.S.O. 1990*, which introduced additional discounts and reductions to community benefits charges calculations and parkland dedication requirements for affordable housing.

- Bill 134, *Affordable Homes and Good Jobs Act, 2023* received royal assent on December 4, 2023, and defines “affordable residential unit” (for both rental and ownership units), provides rules governing an “Affordable Residential Units bulletin” and lays out the criteria for “attainable residential unit” for the purposes of exemptions from development charges. At the time of writing this report, the regulation to define what is considered an “attainable residential unit” has not yet been released as the unit type has not been prescribed.
- On May 1, 2024, the Province released the Affordable Residential Units for the Purposes of the *Development Charges Act, 1997* Bulletin, which sets out the market-based and income-based thresholds used to determine affordable eligibility for a residential unit to qualify for an exemption from development charges. Attachment #1 summarizes the affordable eligibility criteria in the four Halton municipalities effective June 1, 2024.
- Town staff have worked together with Halton Region and the other local municipalities to develop standard terms and conditions for a tri-party agreement template to be administered by the Town.
- It is recommended that the Town enter into a memorandum of understanding with the four local municipalities and Halton Region to provide structure on the roles and responsibilities for the administration of the residential unit development charges exemption, as outlined in this report.

## **BACKGROUND AND DISCUSSION:**

On October 25, 2022, the Province introduced Bill 23, *More Homes Built Faster Act, 2022* which proposed the introduction of a mandatory development charges exemption for affordable (rental and ownership), and attainable residential units, under section 4.1 of the *Development Charges Act, 1997*. At the time, section 4.1 was not enacted because it was dependent on the Province publishing a bulletin to define the thresholds that are used to determine eligibility for the DC exemption.

Through Bill 136, *Affordable Homes and Good Jobs Act, 2023*, the following legislative changes were made:

- Amendments were made to the definitions for “Affordable” (for both rental and ownership)
- The rules governing the “Affordable Residential Units bulletin” were provided
- Amendments were made to the criteria for “attainable residential unit”, which still requires a regulation to define, for the purposes of providing a development charge exemption.

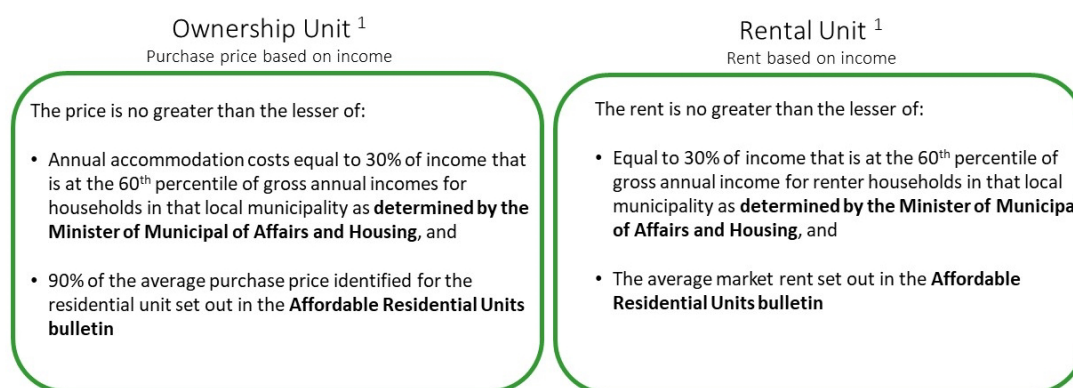
On May 1, 2024, the Province released [Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin](#), which sets out the market-based and

income-based thresholds that are used to determine eligibility of a residential unit for an exemption from development charges, as well as other reductions for community benefits charges (CBCs) and parkland dedication requirements. On June 1, 2024, section 4.1 (as amended by Bill 134) was enacted. Attachment #1 summarizes the eligibility of a residential unit for an exemption from development charges in the four Halton municipalities effective June 1, 2024.

At the time of writing this report, the regulation to define what is considered an attainable residential unit has not been released as the unit type has not been prescribed.

### Exemption of DCs for Affordable Residential Units

Affordable residential unit under section 4.1 of the *Development Charges Act* is defined for both rental and ownership of residential units. For a residential unit to be affordable it must meet the following criteria:



<sup>1</sup> A residential unit that is intended to be an affordable residential unit for a period of 25 years or more from the time that the unit is first rented or sold is exempt from development charges. The local municipality shall enter into an agreement that requires the residential unit to be an affordable residential unit for a period of 25 years.

For Halton Hills, based on the Affordable Residential Units bulletin summarized in Attachment #1, the rental threshold will be market-based, and the ownership threshold will be income-based. This is consistent with the other local municipalities in Halton Region. The bulletin will apply until the province publishes a new bulletin that updates the thresholds. Based on comments from ministry staff, this is anticipated to occur on an annual basis around June 1<sup>st</sup> of each year.

Under the *Development Charges Act*, the creation of a residential unit that is intended to be affordable for 25 years from the time it is first rented or sold, can be exempted from development charges, provided an agreement is entered into with the municipality (both lower and upper-tier). Although the *Development Charges Act* indicates that the province may establish standard form agreements, ministry staff have confirmed that templates will not be provided at this time and any agreement(s) created by municipalities could include terms and conditions deemed appropriate by the municipality.

Staff have developed a standard tri-party agreement for both rental and ownership residential units to implement the requirements set out by section 4.1 of the *Development Charges Act*. The guiding principles in development of these agreement's terms and conditions include the following:

- Ensure that the Developer (for the purposes of this report, the Owner will be considered the Developer) and the municipalities are meeting the requirements of the *Development Charges Act* and the *Planning Act*.
- Ensure that the subsequent owner(s) are aware of the agreement and the terms and conditions.
- Reduce the administrative burden to the extent possible
- Collaboratively navigate further changes in legislation over the 25-year timeframe.

### Affordable Residential Unit Agreement Terms and Conditions

The purpose of the agreement required by the *Development Charges Act* is to ensure that the affordable residential units remain affordable in accordance with the bulletin for a period of at least 25 years.

To ensure eligibility for the exemptions and reductions of development-related fees for DCs, CBCs, and Parkland Dedication, the following provisions are included in the agreements:

- Agreement Registration and Restrictions
  - Agreements are to be registered on title to ensure transparency.
  - A section 118 registration under the Land Titles Act must be registered on title to prevent the transfer or changing of any part of the land without the consent of the Town.
- Affordability and Purchase Requirements
  - Developer and subsequent owners must explain affordability requirements (e.g., collateral mortgage, and 25-year term) to the purchaser and include this information in the Agreement of Purchase and Sale.
  - Any affordable unit purchase/transfer must be at arm's length.
  - The affordable unit price for an ownership unit must include the base price and any additional contracts for upgrades, lot premiums, etc.
  - Upon first occupancy or transfer of title (i.e. the 1<sup>st</sup> purchase), the owner must enter into a collateral mortgage replacing the section 118 restriction requirement which must remain in effect for 25 years to maintain the exemption.
  - The collateral mortgage, which provides security to pay for development charges in case of default, can be postponed to other instruments (i.e. traditional mortgage, Canadian Mortgage and Housing Corporation).
  - Each subsequent sale of an affordable ownership unit must remain affordable under the bulletin threshold in force at the time of sale, to continue to be exempt from development charges.

- If the subsequent sale of an ownership unit meets the bulletin threshold at that time, the subsequent purchaser shall take over the collateral mortgage to maintain the exemption.
- Affordable residential rental units receiving the exemption must annually comply with the affordability threshold outlined in the bulletin(s) in effect for the entire 25-year period.
- Rental Unit Affidavit – Proof of Compliance
  - The owner of an affordable residential rental unit (whether under rental or ownership agreement that decides to rent the purchased home) must submit an affidavit annually, confirming that the rent over the past year qualifies as an affordable residential unit and that there is an intention to maintain affordability in accordance with the bulletin(s) thresholds in effect at that time.
    - The owner must provide any additional proof or documentation requested by the Town and/or Halton Region to verify that the rents meet the affordability threshold.
    - If the owner fails to substantiate that the identified rental units meets and will continue to meet the bulletin threshold, the non-complying unit is no longer deemed to be affordable, and a default notice will be issued. The owner will have 3 months (90 days) to remedy the default, after which the agreement will be in default.
- Default (Non-Compliance)
  - For ownership units, at the time of ownership transfer, if the sale price exceeds the current affordability threshold as outlined in the latest bulletin, the unit is considered in default and the applicable development charges, community benefits charges and parkland dedication fees (calculated based on the rates/amounts in effect when the fees were originally due) become due, along with any accrued interest.
  - For rental units, including those intended for rental under ownership, the units will be considered in default if it cannot be substantiated that they met and will continue to meet the affordability threshold as defined by the bulletin. In such cases, the applicable development charges, community benefits charges and parkland dedication fees (calculated based on the rates/amounts in effect when the fees were originally due) become due, along with any accrued interest.
  - The agreement does not limit the ability of the Town to utilize the tax roll for purposes of collection in the event of default.
- Interest
  - Interest will begin accruing once a default occurs, except in the following cases:
    - If the unit was not initially sold or rented at an affordable rate, the developer will be required to pay the development charges, community benefits charges and parkland dedication fees and interest from the date those fees would have otherwise been payable, prior to releasing the section 118 restriction.

- If a default occurs within two years of the first sale or first occupancy, the owner will be required to pay the development charges, community benefits charges, parkland dedication fees and interest from the date those fees would have otherwise been payable.
        - Interest will be calculated in the same manner as outlined by section 26.3 of the *Development Charges Act*.
- Change in Affordability and Notice
  - Within 30 days of renting the unit or a change in affordability status (e.g., rent changes from affordable to market rates), the owner must provide notice to the Town.
- Termination of Agreement
  - At the end of the 25-year term, the collateral mortgage and agreement shall be removed from title, upon request.

Consistent with the responsibilities for development charges collections set out in the *Development Charges Act*, the Town will be administering the affordable residential unit agreements on behalf of the Region. To administer the agreements efficiently and effectively, the Town and Region have developed a memorandum of understanding establishing that the Town and Halton Region will enter into a tri-party agreement in all cases where the exemption is applicable to both the Town and Halton Region. This will ensure that any Halton Region development charges that may be exempted under the *Development Charges Act* are also secured.

Given the standard agreements for affordable residential units are new in nature, the Town Treasurer, in consultation with Halton Region staff, will make modifications to the standard agreement or its administration, if necessary, in compliance with the *Development Charges Act*.

#### **STRATEGIC PLAN ALIGNMENT:**

This report is administrative in nature and does not have an impact on the Town's Strategic Plan.

#### **RELATIONSHIP TO CLIMATE CHANGE:**

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

#### **PUBLIC ENGAGEMENT:**

Public Engagement was not needed as this report is administrative in nature.

**INTERNAL CONSULTATION:**

Finance staff liaised with Parks and Open Space, and Development Review staff regarding potential administrative impacts.

**FINANCIAL IMPLICATIONS:**

Any exemptions or reductions in Development Charges, Community Benefits Charges, or Parkland Dedication requirements, whether granted by the Town through its bylaws or by the province through legislation or regulations will reduce the recovery of growth-related costs from new development. A decrease in revenue from development charges would require an alternate funding source such as tax-based funding, to support growth-related capital projects and maintain service levels for a growing population.

At the time of this report, the overall impact of these exemptions is difficult to estimate, as it will largely depend on participation in the program. Staff will continue to monitor these impacts and report findings through the Town's annual financial reporting and budget processes.

Reviewed and approved by,

Laura Lancaster, Commissioner of Corporate Services

Chris Mills, Chief Administrative Officer