



# The Corporation of the Town of Milton

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Report To: Council

From: Glen Cowan, Chief Financial Officer / Treasurer

Date: March 17, 2025

Report No: ES-006-25

Subject: Development Charges Exemption for Affordable Housing under the *Development Charges Act, 1997*

**Recommendation:** THAT the Chief Financial Officer and Treasurer be authorized to enter into Tri-Party Agreements and ancillary documents with Developers and the Region of Halton for affordable residential unit development charges exemptions under Section 4.1 of the *Development Charges Act, 1997*, in a form acceptable to the Town Treasurer and external legal counsel, with terms and conditions consistent with Report ES-006-25;

THAT the Chief Financial Officer and Treasurer be authorized to sign a memorandum of understanding and ancillary documents, in a form acceptable to the Treasurer and external legal counsel, setting out the conditions for local administration of the Region's affordable residential unit development charges exemption, as outlined in Report ES-006-25.

## EXECUTIVE SUMMARY

- The Province has introduced updates to the Development Charges Act (DCA) that provide mandatory development charge exemptions for affordable and attainable residential units. The exemption applies to both rental and ownership properties so long as they remain affordable for a period of at least 25 years. A similar exemption was also introduced through the Planning Act for community benefit charges and land conveyance for park or other recreational purposes.
- The Town worked together with the Region and local municipalities to develop standard terms and conditions for a tri-party agreement to be administered by the local municipalities for affordable residential unit development charge exemptions within Halton Region.

## REPORT

### Background

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 DCA. Similarly, an exemption from community benefits charges and land conveyance for park or other recreational purposes was introduced in the *Planning Act* for affordable and attainable residential units as defined under section 4.1 of the DCA. At the time, section 4.1 was not enacted because it was dependant on the Province issuing a bulletin to define affordable residential unit thresholds, as well as a regulation to define attainable residential units eligible for the DC exemption.

Through Bill 134, enacted December 4, 2023, *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 as well as the exemption for community benefits charges and land conveyance for park or other recreational purposes.

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 that are to be used to determine eligibility of a residential unit for an exemption from municipal development-related charges (MDRCs), including development charges, community benefits charges, and land conveyance requirements.

The ownership threshold is the price that is no greater than the lesser of:

- Annual accommodation costs equal to 30% of income that is at the 60<sup>th</sup> percentile of gross annual incomes for households in that local municipality, and
- 90% of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.

The rental threshold is rent that is no greater than the lessor of:



**Background**

- o Equal to 30% of income that is at the 60<sup>th</sup> percentile of gross annual income for renter households in that local municipality as determined by the Minister of Municipal Affairs and Housing, and
- o The average market rent set out in the Affordable Residential Units bulletin.

On June 1, 2024, section 4.1 of the DCA (as amended by Bill 134) was enacted with the market-based and income-based eligibility thresholds for ownership and rental residential units applicable to Milton as shown in the following tables:

**Ownership (Residential Unit Values)**

<i>Type of Dwelling</i>	<i>90% of Purchase Price</i>	<i>Income-Based (applies to all dwelling types)</i>
<i>Detached</i>	\$1,161,000	<b>\$524,000</b>
<i>Semi-Detached</i>	\$918,000	
<i>Row/Townhouse</i>	\$801,000	
<i>Apartment</i>	\$576,000	

**Rental (Monthly Rent)**

<i>Type of Dwelling</i>	<i>Average Market Rent</i>	<i>Income-Based (applies to all dwelling types)</i>
<i>Bachelor Unit</i>	\$1,243	<b>\$2,920</b>
<i>1 Bedroom Unit</i>	\$1,451	
<i>2 Bedroom Unit</i>	\$1,626	
<i>3+ Bedroom Unit</i>	\$1,864	

Effective June 1, 2024, as highlighted in blue, the eligibility ownership threshold is income-based and the rental threshold is market-based. These thresholds will apply until a new

## Background

bulletin is released, which is anticipated to be June 1, 2025, and subsequently on an annual basis.

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.

## Discussion

Under the DCA, 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 local municipality. Although the DCA indicates that the Province may establish standard form agreements, provincial staff have confirmed that templates will not be provided at this time and any agreement(s) created by a local municipality could include terms and conditions deemed appropriate by the municipality.

Town staff worked closely with the Region and local municipalities to develop standard tri-party agreements for rental and ownership residential units to implement the requirements set by section 4.1 of the DCA. The guiding principles in development of these agreement's terms and conditions included 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 DCA and the *Planning Act* (as it relates to the community benefit charge and the land conveyance requirements).
- Ensure that any subsequent owner(s) are made 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 DCA 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 exemption of MDRCs, the following provisions are included in the agreements:

- Agreement Registration and Restrictions
  - Agreement to be registered on title to ensure transparency.
  - A section 118 restriction under the *Land Titles Act* must be registered on title to prevent the transfer or changing of any part of the land without consent of the local municipality.

## Discussion

- **Affordability and Purchase Requirements**
  - Developer and subsequent owners must explain affordability requirements (e.g., collateral mortgage, 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 1st 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 MDRCs 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 MDRCs.
  - 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 (either under a rental agreement or through the rental of a unit under an ownership agreement) 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) threshold in effect at that time.
    - The owner must provide any additional proof or documentation requested by the local municipality and/or Region to verify that the rents meet the affordability threshold.
    - If the owner fails to substantiate that the identified rental unit 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 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 MDRCs (calculated based on the rates/amounts in effect when the fees were originally due) become due, along with any accrued interest.

## Discussion

- 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 MDRCs (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 to utilize the tax roll 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 MDRCs plus interest from the date the 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 MDRCs plus interest from the date the fees would have otherwise been payable.
  - Interest will be calculated in the same manner as s. 26.3 of the DCA and in accordance with Town Policy No. 117 Financial Management - Development Finance.
- Change in Affordability and Notice
  - Within 30 days of renting an ownership unit or a change in affordability status (e.g., rent changes from affordable to market), the owner must provide notice to the Town.
- Termination of Agreement
  - At end of the 25-year term, the collateral mortgage and agreement shall be removed from title, upon request.

Consistent with development charges collections set out in the DCA, Milton will be administering the affordable residential unit agreements on behalf of the Region for the Regional development charges exemption. To administer the agreements efficiently and effectively, a memorandum of understanding establishing roles and responsibilities for such administration will be established between the Town and Region.

Given the standard agreement for affordable residential units are new in nature the Chief Financial Officer and Treasurer, in a form acceptable to external legal counsel, will make modifications to the standard agreement or its administration, if necessary, in compliance with legislation.

Concurrent with this report, updates are also being made to Town Policy No. 117 Financial Management - Development Finance to reflect the exemptions for affordable residential units in accordance with this report and the associated legislation.



## Discussion

## Financial Impact

Although there are no direct financial implications associated with this report, the legislated provision of exemptions for development charges on affordable housing units will require tax-supported funding through the Town's Development Charge Exemptions capital budget. The extent of the impacts are difficult to quantify as there is uncertainty on the quantity of units to be developed in Milton that will meet the affordability thresholds defined in the bulletin. The amount of funding that is incorporated into the Town's property tax base for development charge exemptions has not grown at a commensurate pace with the exemptions provided and therefore, reserves have been utilized to manage the annual financial pressure. The Town's operating budget and forecast incorporates an incremental investments of \$0.5 million per year for DC exemptions in order to move toward financial sustainability for all exemptions.

Any development charges losses resulting from the affordable residential unit development charges exemption will be reported in the annual Development Charges Treasurer's Statement.

Respectfully submitted,

Glen Cowan  
Chief Financial Officer / Treasurer

For questions, please contact: Melanie Wallhouse, Ext. 2314  
Manager, Development Finance  
and Financial Consulting

## Attachments

None

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer



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## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.