

From: Kyle Bentley
Director, City Development & CBO

Subject: Environmental Registry of Ontario Posting 019-7669
Changes to the definition of an “Affordable Residential Unit”
in the *Development Charges Act*
- File: L-1100-063

Recommendation:

1. That Council endorse the comments contained in Report PLN 36-23, and as set out in Appendix I to Report PLN 36-23, as the City of Pickering Detailed Comments on the proposed changes to the definition of an “Affordable Residential Unit” in the *Development Charges Act*; and
 2. That staff be authorized to submit the comments in Report PLN 36-23 and Council’s resolution thereon, to the Environmental Registry of Ontario posting (ERO 019-7669) as the City of Pickering’s comments on the proposed changes to the definition of an “Affordable Residential Unit” in the *Development Charges Act*.
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Executive Summary: The Province of Ontario is seeking comments on proposed changes to the definition of an “affordable residential unit”, as defined in the *Development Charges Act, 1997*, through the Environmental Registry of Ontario, by October 28, 2023.

The proposed definition includes a significant modification from the current definition that only considers market rates, to a definition that includes household incomes.

City staff from City Development, in conjunction with Finance, have reviewed the proposed definition, and prepared comments for Council’s consideration and endorsement. Subject to Council’s endorsement, these comments will be forwarded to Council under separate cover, for inclusion as part of the City’s response to the Registry Posting.

Upon receiving Council approval, staff will submit a copy of Report PLN 36-23, and City of Pickering’s Council resolution thereon, to the Environmental Registry of Ontario posting 019-7669, by the October 28, 2023 comment deadline.

Financial Implications: The recommendations of this report do not present direct or immediate costs to the City of Pickering.

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Discussion

1. Purpose

On September 28, 2023, the Province of Ontario released Bill 134: *Affordable Homes and Good Jobs Act, 2023*. Included in Bill 134 are proposed changes to the definition of an “affordable residential unit”, as defined in the *Development Charges Act*. Comments on these proposed changes are requested through a posting on the Environmental Registry of Ontario (ERO).

The purpose of this report is to provide formal comments from the City to the Province on the proposed definition of an “affordable residential unit”, as defined in the *Development Charges Act*.

2. Background

2.1 Current Definition of Affordable Residential Unit

Bill 23, *More Homes Built Faster Act, 2022*, received royal assent on November 28, 2022. As part of Bill 23, the *Development Charges Act* was amended. One of the amendments to the Act was the addition of the definitions of “affordable residential unit” and “attainable residential unit”. Units that meet the definitions of “affordable” or “attainable” would be exempt from paying municipal development charges once the definitions and exemptions are proclaimed by the Lieutenant Governor, at a date to be identified later.

The City provided comments to the Province, through Bill 23, identifying significant concerns with exempting all affordable units from development charges. The previous comments identified that complete exemption from development charges and parkland dedications will impact the ability of the City to fund infrastructure and its ability to provide parks, which contribute to community livability and positive human and environmental health. In addition, units being exempt from development charges and parkland dedication would be subject to agreements between the municipality and developers, based on information provided by the Minister. The content of the agreements is unknown at this time and there is no information on if, or how, the Province may consult with municipalities on this matter. These concerns remain, despite the proposed new definition of “affordable”.

The current definition of “affordable residential unit” is based solely on market prices and market rents. Under the current Act, a unit is defined as affordable if:

- “prices and rents are no greater than 80% of the average purchase price or market rent, as defined by the Ministry.”

The current definition does not consider the ability of an individual to pay based on income.

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3. Proposed Definition of Definition of Affordable Residential Unit

On September 28, 2023, the Province of Ontario released the proposed updated definition of “affordable residential unit”. The Province has indicated that the proposed definition would be based on the existing definition of “affordable” in the Provincial Policy Statement (PPS), 2020, which considers local income, in addition to, market prices.

The PPS currently defines “affordable” as follows:

- “housing, for which the purchase price, results in annual accommodation costs, which do not exceed 30 percent of gross annual household income, for low- and moderate-income households; or
- housing, for which the purchase price, is at least 10 percent below the average purchase price, of a resale unit, in the regional market area;”

Under the proposed updated definitions in the *Development Charges Act*, (see Table Comparing Current and Proposed Definitions Under the *Development Charges Act*, Attachment #1), an affordable residential unit would be defined as follows:

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 60th 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:

- “30%, of the 60th percentile, of income for rental households in the municipality, or the average market rent, set out in the Affordable Residential Units bulletin.”

There is a key difference between the existing PPS definition and the proposed definition to be included in the *Development Charges Act*. The difference is the PPS indicates “accommodation costs which do not exceed 30 percent of gross annual household income for low- and moderate-income households”, whereas the proposed definition in the *Development Charges Act* indicates “accommodation costs is less than 30% of the 60th percentile of income for households in the municipality”. The 60th percentile is typically considered the top income decile of moderate-income households, using Statistics Canada Census data. The current wording is interpreted by staff to mean that the price point for being affordable would be set by using the income of the 60th percentile.

Setting the benchmark at the top of moderate-income households would indicate that all households in income gaps below the 60th percentile will need to spend more than 30% of their income for housing that is defined and deemed affordable and exempt

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from municipal development charges. This would appear to have the largest impact on low-income households, who typically need affordable housing the most. Based on the latest Statistics Canada Census, the 60th percentile of rental households earned \$85,000 annually in Pickering. There are many households that annually earn thousands of dollars less than the 60th percentile. Those households would be required to spend more than 30% of their income on “affordable units”. The exemption of development charges is being used to encourage more affordable housing. Setting the top income decile of the moderate-income households as the benchmark is leaving the majority of the low- and moderate-income households unserved by this proposed incentive mechanism.

Taking household income into consideration, and not solely using market rates as a determination of affordability, is a positive step. However, the definition of “affordable” in the PPS is more inclusive and using it would impact the affordability crisis in Ontario in a more meaningful way.

It must be noted that there is still a significant amount of information that the Province has not released, discussed in Section 3.1 below. When the additional information becomes available, it may further impact the comments provided by staff.

3.1 Concerns Regarding the Proposed Definition of Affordable Residential Unit

Despite the Province releasing the new definition for public comment, not all the information required to determine how the definition will impact affordability has been provided. The current and proposed definition will rely on an “Affordable Residential Units for the purposes of the *Development Charges Act*” bulletin, which has not yet been released. The bulletin, published by the Ministry, would identify average market rents and purchase prices, define incomes for a local municipality, and define housing and units by type. There is currently no information about the data that will be used to determine market rates or local incomes: its source(s); frequency of updates; or geographic area of coverage. Given this lack of information, it is difficult to provide further meaningful comments on the proposed definitions that are the subject of this consultation.

The lack of detail does not allow staff the ability to apply the proposed definition against data in the Pickering Housing Profile, which was updated in 2023 with the annual housing monitoring report. Staff has made assumptions, based on the most recent housing profile, using Statistics Canada Census and Toronto Real Estate Board data, and the language of the proposed definition, to illustrate how the definition may not result in affordability.

Specifically, looking at the primary rental market provides greater insight into how this could impact affordability in Pickering. Table 1, from the updated Pickering Housing Profile in the 2022 Annual Housing Monitoring report, displays a cross reference of 2020 renter income deciles and maximum affordable rent. The maximum affordable rent is determined by using 30% of the indicated income.

Table 1: Average Market Rents in the Primary Market Compared to Affordable Rents Based on Renter Income Deciles (Pickering, 2020)

2020 Income Deciles		Renter Income	Maximum Affordable Rent	Average Primary Market Rent 2020				
				All Types	Bachelor	1 Bedroom	2 Bedroom	3 Bedroom
Low Income	Decile 1	\$24,600	\$615	N	N	N	N	N
	Decile 2	\$34,400	\$860	N	N	N	N	N
	Decile 3	\$48,000	\$1,200	N	\$1,138	N	N	N
Moderate Income	Decile 4	\$60,800	\$1,520	\$1,452	Y	\$1,356	N	N
	Decile 5	\$74,000	\$1,850	Y	Y	Y	\$1,547	\$1,721
	Decile 6	\$85,000	\$2,125	Y	Y	Y	Y	Y
High Income	Decile 7	\$104,000	\$2,600	Y	Y	Y	Y	Y
	Decile 8	\$123,000	\$3,075	Y	Y	Y	Y	Y
	Decile 9	\$159,000	\$3,975	Y	Y	Y	Y	Y
Minimum Wage		\$29,640	\$741	N	N	N	N	N

Source: RISWG custom order of Statistics Canada Census, 2022.

Source: TREB, Market Watch, December 2022.

Y: Yes, can afford Average Market Rent, N: No cannot afford Average Market Rent

The table shows that currently, households in the primary rental market within the 6th decile, can afford rental units at average rental prices, while spending 30% of income or less. It is the households lower than the 5th decile, specifically low-income households, that are experiencing more pressing affordability issues. The change in the definition for rental units eliminates market rate, resulting in the price for affordable units being set using \$2,125 per month. The \$2,215 is an increase compared to the current market rates for all units within Pickering. This change would allow rental rates to increase while still meeting the definition of affordable and being exempt from development charges. This illustrates that using the 60th percentile of income households as the benchmark for affordability will result in low-income households spending more than current rates to pay rent for housing that has been deemed “affordable”.

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4. Conclusion

The Province has proposed a new definition of “affordable residential unit”, which considers household income as a factor for affordability. This represents a positive step from the current definition, which only considers market rates.

Despite the new definition being proposed, the data and material that will be used to implement the new definition have not been made available. Staff are concerned with the wording that suggests using the 60th percentile of household incomes as the benchmark for affordability. This benchmark will not fully address affordability issues within communities, specifically for low-income households, and could result in higher rental rates.

There is also a concern that units (that may not provide true affordability for all residents) will be exempt from paying municipal development charges and not require the dedication of parkland, which will impact the municipality and the community. If the exemption of development charges is being used to encourage affordable housing, it should benefit all residents in low- and moderate-income families, who need affordable housing.

At this time, there is no additional information regarding “attainable” residential units.

Staff have prepared comments and recommendations for Council's consideration which, if endorsed, will be submitted as the City's formal comments to the ERO by October 28, 2023.

Attachment:

1. Table Comparing Existing and Proposed Definitions under the *Development Charges Act*
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Appendix:

Appendix I City of Pickering Detailed Comments on Environmental Registry of Ontario Posting 019-7669

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Changes to the definition of an "Affordable Residential Unit"
in the *Development Charges Act*

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Recommended for the consideration
of Pickering City Council



Marisa Carpino, M.A.
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**Table¹ Comparing Existing and Proposed Definitions Under the
Development Charges Act**

Existing <i>Development Charges Act</i>		Proposed Bill 134 Changes
Affordable residential unit rented (s.s. 4.1(2), para. 1)	The rent is no greater than 80 per cent of the average market rent , as determined in accordance with subsection (5).	The rent is no greater than the lesser of , <ul style="list-style-type: none"> i. the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (5), and ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.
Average Market Rent/Rent based on Income (s.s. 4.1(5)) for the purposes of s.s. 4.1(2), para. 1	the average market rent for the year in which the residential unit is occupied by a tenant , as identified in the bulletin entitled the "Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin	the Minister of Municipal Affairs and Housing shall, <ul style="list-style-type: none"> (a) determine the income of a household that, in the Minister's opinion, is at the 60th percentile of gross annual incomes for renter households in the applicable local municipality; and (b) identify the rent that, in the Minister's opinion, is equal to 30 per cent of the income of the household referred to in clause (a).
Affordable residential unit ownership (s.s. 4.1(3), para. 1)	The price of the residential unit is no greater than 80 per cent of the average purchase price , as determined in accordance with subsection (6).	The price of the residential unit is no greater than the lesser of , <ul style="list-style-type: none"> i. the income-based affordable purchase price for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (6), and ii. 90 per cent of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.

Existing <i>Development Charges Act</i>		Proposed Bill 134 Changes
Average Market Rent/Purchase Price based on Income (s.s. 4.1(6)) for the purposes of s.s. 4.1(3), para. 1	the average purchase price for the year in which the residential unit is sold , as identified in the bulletin entitled the “Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin”, as it is amended from time to time, that is published by the Minister of Municipal Affairs and Housing on a website of the Government of Ontario	the Minister of Municipal Affairs and Housing shall, (a) determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for households in the applicable local municipality ; and (b) identify the purchase price that, in the Minister’s opinion, would result in annual accommodation costs equal to 30 per cent of the income of the household referred to in clause (a)

¹ From Watson & Associates Economists Ltd.

**City of Pickering Detailed Comments on the
Proposed Changes to the Definition of an “Affordable Residential Unit” in the
*Development Charges Act***

ERO Posting 019-7669 (Closing October 28, 2023) 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	
ERO Posting	City of Pickering Comments
Including household incomes in the definition of affordable.	Including household income, and not solely using market rates, as a determination of the definition of affordability, is a positive step and encouraged.
Affordable Residential Unit Rented	<p>Eliminating market rate from the definition of rental units, to solely define affordable units based on the income of the 60th percentile of households, could increase rental prices.</p> <p>Subject to the data to be used to in the Minister’s Bulletin, that will define incomes, market rates, units, etc., it is very possible that current rental prices will increase, be deemed affordable, and be exempt from development charges.</p> <p>This would appear to decrease affordability and add to the affordability crisis currently facing residents in Ontario.</p>
Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing	<p>The data, and data sources to be used, are critical to understanding the proposed definition of “affordable”, and how it will impact affordability in local communities.</p> <p>Please provide details, and establish a formal consultation process, on the following elements to be used in creating the Affordable Residential Units bulletin:</p> <ul style="list-style-type: none"> • Data to be used to determine market prices, and local incomes; • Data sources; • Frequency of updates to the data and Bulletin; • Geographic area(s) to be used to define “the local municipality” e.g., municipal boundaries; CMHC districts, TREB districts; Census tracts, etc.?
Determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for households in the applicable local municipality	The definition in the Provincial Policy Statement, 2020, is more inclusive, as it refers to affordability to both low- and moderate-income households. It recognizes a broader range of affordability needs as part of the affordability crisis in Ontario.

**ERO Posting 019-7669
(Closing October 28, 2023)**

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

ERO Posting	City of Pickering Comments
	<p>The 60th percentile is considered the top end of the moderate-income range. Using the 60th percentile of income households as the benchmark for affordability will not fully address affordability. Low-income households, who require affordable housing assistance the most, may still not be able to afford units defined as affordable.</p> <p>The exemption of development charges is being used as a significant incentive to develop more affordable housing. As the incentive has significant impacts to municipalities and residents, the definition should benefit all residents in low and moderate income households.</p>
Additional Comments	
	<p>How will units be defined in the bulletin?</p> <p>The City of Pickering’s Development Charge By-law establishes charges for various categories of residential development (single and semi-detached; other multiples; apartments: 2 bedrooms +; apartments – bachelor and 1 bedroom).</p> <p>Will the Bulletin be providing information in corresponding unit types, or will some other metric be used, such as number of rooms; square metres, etc.?</p> <p>This is key to understanding how these units will be defined. How the units are defined may impact developers decisions to create larger units, including two and three bedroom units. These larger family units are needed and currently difficult to get developers to include in projects.</p>