

Development Charges Act, 1997 - Extract

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2022, c. 21, Sched. 3, s. 3)

Exemption for affordable and attainable residential units

Definitions

4.1 (1) In this section,

“affordable residential unit” means a residential unit that meets the criteria set out in subsection (2) or (3); (“unité d’habitation abordable”)

“Affordable Residential Units bulletin” means 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; (“bulletin relatif aux unités d’habitation abordables”)

“attainable residential unit” means a residential unit that meets the criteria set out in subsection (4). (“unité d’habitation à la portée du revenu”) 2022, c. 21, Sched. 3, s. 3.

Affordable residential unit, rented

(2) A residential unit intended for use as a rented residential premises shall be considered to be an affordable residential unit if it meets the following criteria:

1. The rent is no greater than the lesser of,

- 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.

~~1. The rent is no greater than 80 per cent of the average market rent, as determined in accordance with subsection (5).~~

2. The tenant is dealing at arm’s length with the landlord. 2022, c. 21, Sched. 3, s. 3.

Affordable residential unit, ownership

(3) A residential unit not intended for use as a rented residential premises shall be considered to be an affordable residential unit if it meets the following criteria:

1. The price of the residential unit is no greater than the lesser of,

- 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.

~~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).~~

2. The residential unit is sold to a person who is dealing at arm’s length with the seller. 2022, c. 21, Sched. 3, s. 3.

Attainable residential unit

(4) A residential unit shall be considered to be an attainable residential unit if it meets the following criteria:

1. The residential unit is not an affordable residential unit.
2. The residential unit is not intended for use as a rented residential premises.
3. The residential unit was developed as part of a prescribed development or class of developments.
4. The residential unit is sold to a person who is dealing at arm’s length with the seller.

5. Such other criteria as may be prescribed. 2022, c. 21, Sched. 3, s. 3.

Average market rent

~~(5) For the purposes of paragraph 1 of subsection (2), the average market rent applicable to a residential unit is 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”, 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. 2022, c. 21, Sched. 3, s. 3.~~

Average purchase price

~~(6) For the purposes of paragraph 1 of subsection (3), the average purchase price applicable to a residential unit is 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. 2022, c. 21, Sched. 3, s. 3.~~

Rent based on income

~~(5) For the purposes of subparagraph 1 i of subsection (2), in identifying the income-based affordable rent applicable to a residential unit, 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 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).~~

Purchase price based on income

~~(6) For the purposes of subparagraph 1 i of subsection (3), in identifying the income-based affordable purchase price applicable to a residential unit, 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).~~

Arm’s length

(7) For the purposes of this section, in the determination of whether two or more persons are dealing at arm’s length, section 251 of the *Income Tax Act* (Canada) applies with necessary modifications. 2022, c. 21, Sched. 3, s. 3.

Affordable residential unit, exemption from development charges

(8) The creation of 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. 2022, c. 21, Sched. 3, s. 3.

Same, agreement

(9) A person who, but for subsection (8), would be required to pay a development charge and the local municipality shall enter into an agreement that requires the residential unit to which subsection (8) applies to be an affordable residential unit for a period of 25 years. 2022, c. 21, Sched. 3, s. 3.

Attainable residential unit, exemption from development charges

(10) The creation of a residential unit that is intended to be an attainable residential unit when the unit is first sold is exempt from development charges. 2022, c. 21, Sched. 3, s. 3.

Same, agreement

(11) A person who, but for subsection (10), would be required to pay a development charge and the local municipality shall enter into an agreement that requires the residential unit to which subsection (10) applies to be an attainable residential unit at the time it is sold. 2022, c. 21, Sched. 3, s. 3.

Standard form agreement

(12) The Minister of Municipal Affairs and Housing may establish standard forms of agreement that shall be used for the purposes of subsection (9) or (11). 2022, c. 21, Sched. 3, s. 3.

Registration of agreement

(13) An agreement entered into under subsection (9) or (11) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land. 2022, c. 21, Sched. 3, s. 3.

Transition

(14) Subsection (8) does not apply with respect to a development charge that is payable before the day section 3 of Schedule 3 to the *More Homes Built Faster Act, 2022* comes into force. 2022, c. 21, Sched. 3, s. 3.

Non-application of *Legislation Act, 2006*

(15) Part III (Regulations) of the *Legislation Act, 2006* does not apply to,

- (a) a bulletin referred to in this section; or
- (b) a standard form of agreement established under subsection (12). 2022, c. 21, Sched. 3, s. 3.

Section Amendments with date in force (d/m/y)

2022, c. 21, Sched. 3, s. 3 - not in force