**City of Kitchener Comments on Bill 134, Affordable Homes and Good Jobs Act, 2023**

*The City of Kitchener appreciates the opportunity to comment on the proposed amendment to subsection 4.1 of the Development Charges Act, 1997 to change the definitions of an affordable residential unit (for both rental and ownership) for the purpose of discounting and exempting these units from municipal development-related charges.*

City of Kitchener previously provided feedback on development-related charge exemptions for affordable housing units announced in Bill 23*, More Homes Built Faster Act, 2022*. In our submission, dated November 23, 2022, Kitchener requested further clarity on how affordability will be defined and suggested that a more equitable approach to determining lowest price/rent should be based on incomes rather than average purchase price.

Bill 134*, Affordable Homes and Good Jobs Act, 2023* proposes to amend the definitions of affordable residential units to incorporate income criteria, in addition to market prices/rents (the lesser of the two), which more closely aligns with the definition of “affordable” in the current Provincial Policy Statement, Regional Official Plan, and the City of Kitchener’s Official Plan. If these proposed changes pass, according to Kitchener’s thresholds (using Waterloo Region data provided annually by the Ministry), income criteria will be used to determine affordable house ownership costs, and average market rental prices will be used to determine affordable rental units.

The City of Kitchener shares the Province’s goal of making housing more affordable across the housing continuum and is supportive of the decision to incorporate income-criteria into the definition of an affordable residential unit. However, there remain concerns with the lack of provisions regarding the administration and enforcement of these proposed changes, as well as the potential financial burden on municipalities. Kitchener requests additional information on the proposed changes and their implications, and offers the following comments and questions for clarification.

**COMMENTS & CLARIFICATION QUESTIONS**

**I. Development Charge Exemption Process** *–* Administering and enforcing development charge exemptions will require additional staff time and resources. Staff has expressed the need for greater provincial guidance to ensure effective and efficient implementation.

**a. Administration**

Establishing precise eligibility criteria that clearly set out which developments qualify for development charge exemptions will provide greater clarity and certainty to staff and the customer.

*Q. Beyond providing a standardized definition of eligibility, is there any additional documentation that the Province could supply that provides clear eligibility rules and regulations to streamline the municipal exemption process?*

To this end, we also encourage the Province to consider unit size when determining thresholds:

* Unit Size:The proposed definition changes do not consider the unit size of a residential unit when determining affordability. That is, a four-bedroom unit is subject to the same affordability threshold of a one-bedroom unit. Consequently, Bill 134 may promote the development of smaller residential units that meet affordability criteria, discouraging the development of larger, affordable units suitable for accommodating missing middle housing. For example, according to the PPS affordability tables for 2022 in Waterloo Region, bachelor condominiums priced under $417,000 would be considered affordable and exempt from fees, but a 4 bedroom at $419,000 would not.
* *Q. Is the Province willing to explore the incorporation of unit size categorization within the proposed affordable definition to incentivize the development of a wide range of affordable housing units?*

**b. Enforcement**

Bill 134 does not include any mandatory provisions that address the long-term affordability of residential units and will ensure that affordability exemptions are being passed on to home buyers and renters. We urge the Province to consider the following enforcements for further guidance:

* Whether maximum income thresholds should be implemented to guarantee that affordable housing units are allocated to households facing the greatest financial need.
* Whether affordable ownership units must be owner-occupied.
* Whether affordable ownership units can be resold at market value.
* Whether secondary rental market units, initially exempt from fees as affordable ownership units, should still adhere to affordable rental criteria.

*Q. Does the Province intend to provide any guidance regarding the enforcement of affordable housing units, keeping in mind the potential impact on municipalities and their capacity to manage such enforcements?*

**II. Financial Impact** – Ensuring the financial implications of Bill 134 on municipalities are carefully assessed is crucial, considering not only the exemptions from development charges but also the additional staff time and costs to administer the exemption process.

The financial implications of Bill 134 remain uncertain until the Affordable Residential Units Bulletin is published.

To demonstrate potential impacts, Kitchener has compared CMHC’s absorbed unit prices to thresholds for freehold and condominium sales to determine the potential financial implications that may result from proposed development charge exemptions on affordable ownership housing. Dependent upon varying market conditions, our findings reveal that exemptions may pose significant financial impact to the city’s growth-related revenue. For example, just five years ago, over 50% of units sold in Kitchener would have been eligible for development charge exemptions under the proposed affordable residential unit definition.

*Q. Is it still the intention of the Province to make municipalities financially whole from affordable housing exemptions and associated administrative costs?*

**III. Affordable Residential Units Bulletin** –

**a. Affordability Thresholds** – Bill 134 indicates that affordable housing thresholds will be outlined in a forthcoming Affordable Residential Units Bulletin and will be determined based on municipal averages, as opposed to the current Provincial Policy Statement (PPS) framework which operates at the Regional Market Area level. Utilizing municipal averages to determine affordability may unintentionally discourage the growth of affordable housing in municipalities with lower income averages.

*Q. Will the Province consider affordability threshold caps, based on either regional market area or provincial averages, in order to maintain equity across integrated housing markets?*

**b. Frequency and Data Sources:** Bill 134 specifies that the Bulletin will be updated from time to time but does not share which data sources will be used to determine affordability thresholds. Additionally, the use of the 60th percentile is unique and relies on census data that is updated every five years.

*Q. Can the Minister provide clarity on the frequency of bulletin updates and where data threshold metrics will be sourced from?*

*Q. When establishing income thresholds, will the province explore the possibility of utilizing a percentage (e.g., 30%) of* ***median income*** *as an alternative to the 60th percentile of gross annual incomes?*

**Attainable Housing** –Bill 134 does not include any reference to the development charge exemption for attainable residential units, as set forth through *the More Homes Built Faster Act*. This exemption is not yet in effect and further details remain unknown, including how attainable housing units are to be defined.

*Will the Province provide municipalities with an update on the status of development charge exemptions for attainable housing units?*

**Park Dedication** *–* Staff requests a previous Bill 23 clause related to affordable housing and park dedication be reconsidered under the proposed definition of affordable housing.

Q. *Will the Province align the revised definition of affordable residential units across all existing provincial planning legislation?*

Clause 42.1.1 states that any development/redevelopment that will include affordable residential units will not exceed 5 percent park dedication, with a ratio of affordable to total units proposed applied to that percentage.

We agree with the ratio approach as a means to incentivize and recognize affordable housing, however the cap to 5% should be removed in favour of the new alternative rate maximum of 10%. This clause as currently written will grant a development with 1 or more affordable units an immediate halving of park dedication fees. We believe this is not an appropriate reduction method that will adversely affect park supply as more affordable units are developed.