

City Comments on Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act

Date: October 21, 2024

To: Planning and Housing Committee

From: Interim Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

On September 23, 2024, the Province introduced a proposed amendment to Ontario Regulation 299/19 Additional Residential Units (ARUs), made under the *Planning Act* on the Environmental Registry of Ontario (ERO) (<https://ero.ontario.ca/notice/019-9210>). The Province provided stakeholders 30 days to review and provide comments on the proposed regulation, with comments due by October 23, 2024. The Chief Planner has submitted a letter with staff comments on the proposed regulation to the ERO by the commenting deadline. In May 2024, City Council adopted comments in response to the Minister's Regulation Making Authority proposed in ERO 019-8369 (Bill 185, Cutting Red Tape to Build More Homes Act, 2024), to establish requirements and standards for Additional Residential Units. The City commented that regulations related to individual units rest with Municipalities, with the direction to make changes in contextually appropriate manners. This continues to be the City of Toronto's comment, and as it relates to ERO 019-9210, proposed amendment to Ontario Regulation 299/19 Additional Residential Units, made under the *Planning Act*.

The proposed changes to Ontario Regulation 299/19 Additional Residential Units, recommends overriding five performance standards in municipal zoning by-laws with the intention of increasing the uptake ARUs. ARUs include secondary suites, laneway and garden suites, and multiplexes. The proposed changes include the removal of required angular planes, increased maximum lot coverage, removal of floor space index (FSI), removal of required minimum lot size, and reduction in minimum building separation distances between the main residential building and an ancillary building containing an ARU.

Since 2018, Council has adopted zoning regulations for ARUs to effectively introduce laneway and garden suites, secondary suites, and multi-plexes while balancing impacts on privacy, access to sunlight, stormwater run off, soft landscaping, tree canopy and biodiversity. This report provides a high-level summary and discussion of the proposed amendment to Ontario Regulation 299/19 changes and potential impacts on the City's of Toronto's implementation of ARU's.

In May 2024, City Council adopted comments in response to Minister's Regulation Making Authority ERO 019-8369 (Bill 185, Cutting Red Tape to Build More Homes Act, 2024), which granted the Minister the authority to make regulations establishing requirements and standards for Additional Residential Units. The City commented that regulations related to individual units rest with Municipalities, with the direction to make changes in contextually appropriate manners.

RECOMMENDATIONS

The Interim Chief Planner and Executive Director, City Planning recommends that:

1. City Council receive the report "City Comments on Proposed amendment to Ontario Regulation 299/19 Additional Residential Units, made under the Planning Act" dated October 21, 2024, and Attachment 1, letter to the Ministry of Municipal Affairs and Housing for information.

FINANCIAL IMPACT

Financial implications will be outlined in the forthcoming supplementary report. There are no financial impacts arising from the recommendations contained in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Changes to Ontario Planning Regulations

Beginning in 2019, the policy-led planning system under which municipalities have operated for over 15 years has experienced numerous changes, requiring the City to review, examine and adapt our planning practices and policies.

In May 2019, City Council considered Item CC7.3, Bill 108 *More Homes, More Choice Act, 2019*, and Housing Supply Action Plan, which highlighted proposed changes to various legislation. The report provided preliminary comments outlining potential effects on municipal land-use planning, the development-approval process, heritage conservation, and funding for community facilities and infrastructure.

<https://secure.toronto.ca/council/agenda-item.do?item=2019.CC7.3>

In May 2022, City Council considered Item PH33.11 on Bill 109 *More Homes for Everyone Act*, which received Royal Assent before the stated commenting period expired. Council also adopted additional concerns related to Bill 109.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH33.11>

In November 2022, City Council considered Item CC1.2 Update on Bill 23, *More Homes Built Faster Act, 2022*, and Supplementary Report – City Staff Comments on Bill 23, which highlighted major changes proposed, potential effects on the City, and made recommendations for Council adoption and submission to the Province.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC1.2>

In November 2023, City Council considered Item PH7.7 City Comments on Provincial Bill 134 Proposed Definition of Affordable Residential Unit, which proposed amendments to the definition of Affordable Residential Units introduced in Bill 23.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH7.7>

In May 2024, City Council adopted comments in response to Minister's Regulation Making Authority ERO 019-8369 (Bill 185, Cutting Red Tape to Build More Homes Act, 2024), which granted the Minister the authority to make regulations establishing requirements and standards for Additional Residential Units.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PH12.7>

Housing Action Plan Amendments to Increase Housing Opportunities

Additionally, beginning in 2018, the City has initiated and implemented several changes to Official Plan policies and Zoning By-law regulations to introduce new permissions for additional residential units in Toronto's neighbourhoods, across all residential zones, in support of increasing housing options and their consistent implementation across all parts of Toronto.

On June 26, 2018, City Council adopted OPA 403 and Zoning By-law Amendments Changing Lanes: The City of Toronto's Review of Laneway Suites - City-Initiated Official Plan Amendment and Zoning Amendment - Final Report, to introduce permissions and performance standards for laneway suites in the Residential (R) Zone.

<https://secure.toronto.ca/council/agenda-item.do?item=2018.TE33.3>

On July 23, 2018, City Council adopted Official Plan Amendment (OPA) 418 to encourage the creation of second units to increase the supply and availability of rental housing within neighbourhoods across the city.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.4>

On July 16, 2019, City Council adopted OPA 460 and Zoning By-law Amendment 1210 - 2019, Changing Lanes: The City of Toronto's Review of Laneway Suites - City-wide Expansion of City-Initiated Official Plan Amendment and Zoning Amendment - Final Report, to introduce permissions and performance standards for laneway suites city-wide.

<https://secure.toronto.ca/council/agenda-item.do?item=2019.PH7.1>

On December 15, 2021, City Council adopted amendments to Zoning By-law 569-2013 with respect to laneway suites, through By-law 1107 - 2021. The Laneway Suites Monitoring Report recommended several amendments to Zoning By-law 569-2013 with respect to laneway suites resulting from the findings of the monitoring program:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.PH29.2>

On February 2, 2022, City Council adopted Official Plan Amendment 554 and Zoning By-law Amendment 101 - 2022 to introduce permissions and performance standards for garden suites city-wide through the Expanding Housing Options in Neighbourhoods – Garden Suites – Final Report

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH30.2>

On May 10, 2023, City Council adopted OPA 649 and Zoning By-law 569-2013 Amendment 474-2023, to update permissions and performance standards for duplexes, triplexes, fourplexes and secondary suites as part of the EHON Multiplex Study, and direct the Chief Planner and Executive Director, City Planning to monitor the implementation and effectiveness of OPA 649 and ZBLA 474– 2023.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH3.16>

On February 28, 2024, Planning and Housing Committee received the Expanding Housing Options in Neighbourhoods - Garden Suites Monitoring Program Update Report for information: <https://secure.toronto.ca/council/agenda-item.do?item=2024.PH10.4>

COMMENTS

The proposed regulation applies to all lots with permissions for development of Additional Residential Units (ARUs). ARUs are defined in O/Reg. 299/19 as "a residential unit referenced in subsection 35.1 of the Act". The *Planning Act* defines a residential unit as "a unit that, (a) consists of a self-contained set of rooms located in a building or structure, (b) is used or intended for use as residential premises, and (c) contains kitchen and bathroom facilities that are intended for the use of the unit only". Staff interpret this to apply to all lots with permissions to develop at least one ARU. In the Toronto context, all residential lots in the City's *Neighbourhoods*, that do not back onto a public laneway, have permission to build a garden suite and many have permission to build a laneway suite if adjacent to a public lane. Additionally, all residential lots are permitted to develop multiplexes (up to four dwelling units), and all detached, semi-detached and townhouses may have a secondary suite, such as a basement apartment. As a result, the proposed regulation would apply to all residentially zoned lots in the City.

The proposed regulation recommends five performance standards to override municipal zoning by-laws with the intention of facilitating the creation of ARUs. The proposed changes include the removal of required angular planes, increased maximum lot coverage, removal of limits on floor space index (FSI), removal of required minimum lot size, and reduction in minimum building separation distances between the main residential building and an ancillary building containing an ARU.

The proposed regulations are intended to remove perceived barriers to the creation of ARUs, and seek to override any municipal zoning regulations that would require angular planes, minimum lot size and Floor Space Index (FSI) values. As well the proposed regulations intend to increase maximum lot coverage permissions to 45 percent and introduce a building separation distance of 4 m regardless of context.

The proposed changes have the potential to undermine zoning regulations to permit ARUs while balancing impacts on privacy, access to sunlight, protection of tree canopy and soft landscaping, as well as stormwater run off and biodiversity. Staff do not have concerns with the proposed regulation that would prevent minimum lot size requirements.

The City has been a leader in increasing permissions for ARUs through secondary suites and the Expanding Housing Options in Neighbourhoods (EHON) initiative by implementing as-of-right zoning permissions for laneway suites, garden suites and multiplexes. The Council adopted regulations for ARUs were developed to permit gentle density into the City's neighbourhoods while balancing impacts on privacy, access to sunlight, stormwater run off, soft landscaping, tree canopy and biodiversity.

Each introduction of zoning permissions related to the EHON initiative has included a monitoring program to evaluate their implementation and report back on recommended changes. Monitoring for Laneway suites concluded in 2021, resulting in changes to enable laneway suites more effectively. The findings of the monitoring programs for Garden Suites and Multiplexes are anticipated to be reported on in early 2025. As of August 31, 2024, a total of 1247 applications have been received for laneway and garden suites, with a total of 938 issued building permits. This translates to 638 permitted laneway suites, and 300 garden suites.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Comment letter to the Ministry of Municipal Affairs and Housing