

Federation of Urban Neighbourhoods (Ontario)

Additional Residential Units (ARUs): Proposed Amendment to Ontario Regulation 299/19 under the Planning Act (ERO 019-9210)

The Federation of Urban Neighbourhoods (Ontario) Inc. (FUN) provides a provincial voice for residents' associations in Ontario's urban areas. Residents' associations are engaged with their municipal governments in land use planning and development, transportation, and advocacy regarding policy and priority setting for services provision, and revenues. FUN believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment, and social renewal.

The proposed regulation is pursuant to Bill 185, the **Cutting Red Tape to Build More Homes Act, 2024**. This omnibus bill with the stated intent of removing barriers to building 1.5 million homes by 2031 included changes to a range of legislation including:

- changes to development charges and
- changes to Ontario's land-use planning framework including giving the minister of the day more regulation-making powers

The regulatory proposal currently being consulted on would remove zoning barriers that discourage additional residential units on a single lot, like basement suites, laneway suites and garden suites.

Provincial Policy Context

Through Bill 23 (the More Homes Built Faster Act, 2022), changes were made to the Planning Act to accelerate implementation of the Province's additional residential unit (ARU) framework.

These changes allow "as-of-right" the use of up to 3 units per lot in many existing residential areas (i.e., up to 3 units allowed in the primary building, or up to 2 units allowed in the primary building and 1 unit allowed in an ancillary building such as a garage). This as-of-right permission applies province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services (excepting for legal non-conforming uses such as existing houses on hazard lands). Changes were also made to remove certain barriers (i.e., development charges,

parkland requirements, minimum unit sizes and parking requirements) to encourage the creation of more additional residential units.

Proposed Regulation

The regulation proposes performance standards that would apply to the same lands as the current ARU framework (i.e., urban residential land permitting up to 3 units per lot). The proposed performance standards would not apply to rural areas, or settlement areas without full municipal servicing:

1. Angular plane
2. Maximum lot coverage
3. Floor Space Index (FSI)
4. Minimum lot size
5. Building distance separation

The selected performance standards are among the most commonly regulated by municipal planning departments across the province.

This submission reviews the proposal from four perspectives:

- A. Technical analysis
- B. Jurisdictional overreach
- C. Municipal context
- D. Broader impacts

A. Technical Analysis

Performance measure	Proposal	Comment	Recommendation
1. Angular plane	Override all angular plane requirements in zoning bylaws for buildings with ARUs	Intent of angular plane is to reduce the shadowing impacts of a building and is appropriately applied to buildings regardless of whether they have ARUs	Oppose
2. Maximum lot coverage	Allow at least 45% lot coverage for all buildings and structures on parcels with ARUs	There is no rational argument for an increased lot coverage in the case of a basement apartment. In fact it	Oppose. A more rational basis would be to allow 10% additional lot coverage (for example 0.7 instead

		can be argued the opposite is the case – more open space is required where there are ARUs. “At least” is indefinite confusing and inappropriate language	of 0.6) above the regulated FSI for a laneway suite or garden suite - but not basement suite
3. Floor Space Index (FSI)	Override all FSI requirements in zoning bylaws that apply to parcels with ARUs	FSI measures density and needs to be maintained in all building types. As in #2 there is no rational argument for an increase in the case of a basement suite ¹	Oppose
4. Minimum Lot Size	Override all minimum lot size/area requirements that are specific to parcels with ARUs	No rationale argument to make an exception for ARUs ²	Oppose
5. Building Distance separation	Restrict building distance separation requirements associated with any building containing ARUs to a maximum of 4 metres	Stating a specific distance reflects a remarkable level of micro-management. A better approach would be to base building distance on lot size especially in view of #4 which removes minimum lot size	Oppose

B. Jurisdictional overreach

At a governance level, this provision amounts to jurisdictional overreach of the Province into the municipal land use planning sphere. While the Province sets the land use planning framework through the Planning Act, regulations and policy statements (PPS), municipalities have been responsible for developing and implementing the municipal

¹ In Toronto basement floor area is already exempt.

² Ditto

Official Plan and zoning bylaws, relying on community input. As such **we oppose the proposed measure in principle** as taking away the ability of the municipality to plan for local land use and housing needs within a provincial framework.

C. Municipal context

Toronto (and many other municipalities) moved to revise its zoning bylaws to encourage additional dwelling units and in 2023 approved a comprehensive set of zoning bylaw changes for Additional Dwelling Units (ADUs). These were approved after extensive study and community engagement. However, so far few units have been approved under the new zoning provisions, and the barriers to additional units seem to be more related to the market, affordability, interest rates and construction costs.

D. Broader Impacts

On communities, the regulation will increase land values, create greater uncertainty as to what density looks like, which will increase tensions within communities as transitions from one property to another become closer, and less respectful.

On the environment, the regulation will increase shadows, increase water run off, parking needs, and natural infrastructure such as trees, and increases the impact and cost of more volatile weather.

As for the democratic process this takes away community choice and adds to the financialization of real estate, which is what drives prices up in the first place.

Conclusion

The proposal is irrational, overreaching and disconnected from realities on the ground about which municipal governments know best.

We oppose the proposed regulation as representing inappropriate jurisdictional overreach, unnecessary in light of ongoing municipal action, and having broader unmeasured impacts.

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October 23, 2024