

City Planning

**City Hall**  
100 Queen Street West  
12<sup>th</sup> Floor, East Tower  
Toronto, Ontario M5H 2N2

**Tel:** 416-392-0871  
Kyle.Knoeck@toronto.ca  
[www.toronto.ca/planning](http://www.toronto.ca/planning)

Provincial Land Use Plans Branch  
777 Bay Street, 13th Floor  
Toronto, ON, M5G 2E5  
[growthplanning@ontario.ca](mailto:growthplanning@ontario.ca)

**RE: Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act ([ERO 019-9210](#))**

On behalf of the City of Toronto, we are pleased to submit the City's comments and recommended revisions to the proposed amendment to Ontario Regulation 299/19 Additional Residential Units, made under the *Planning Act*. The enclosed attachment contains comments and recommendations on ERO 019-9210.

At this time, the comments found in the attachment are those of City of Toronto City Planning staff. A report containing the comments in the attachment, will be considered at the City of Toronto Planning and Housing Committee at its meeting of October 30, 2024 <https://secure.toronto.ca/council/#/committees/2565/24481>. Staff will forward the Ministry of Municipal Affairs and Housing all comments and recommendations arising from the Committee meeting following its conclusion.

The City supports the general intent of the Province to streamline processes to assist in increasing the supply of housing and meeting the Province's goal of building 1.5 million homes. 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. Each EHON initiative includes a monitoring program to evaluate their implementation and a required 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. The Council adopted regulations for ARUs are specifically crafted to address Toronto's unique lot fabric continued to be monitored for to support implementation. City planning staff do not support a one-size fits all province-wide approach to performance standards for ARUs.

Additionally, 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*.

Thank you for the opportunity to comment. Should you have any questions regarding the City's submission or would like to arrange a meeting with City staff, please contact [Caroline Samuel](#), Acting Director, Zoning and Committee of Adjustment (416-392-8781) or [Brooke Marshall](#), Manager (Acting), Zoning Section, Zoning and Committee of Adjustment (416-397-4075).

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Knoeck", with a horizontal line extending to the right.

Kyle Knoeck, M.Sc.Pl., MCIP, RPP  
Interim Chief Planner and Executive Director  
City Planning Division

Attachments:

1. City of Toronto Comments to ERO Posting ERO 019-9210 (Ontario Regulation 299/19 Additional Residential Units, made under the Planning Act).

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**Tel:** 416-392-0871  
Kyle.Knoeck@toronto.ca  
[www.toronto.ca/planning](http://www.toronto.ca/planning)

October 23, 2024

Provincial Land Use Plans Branch  
777 Bay Street, 13th Floor  
Toronto, ON, M5G 2E5  
[PlanningConsultation@ontario.ca](mailto:PlanningConsultation@ontario.ca)

**RE: Proposed amendment to Ontario Regulation 299/19 Additional Residential Units, made under the Planning Act (ERO 019-9210)**

We are pleased to submit City Planning staff comments and recommended revisions to the proposed amendment to Ontario Regulation 299/19 Additional Residential Units, made under the *Planning Act*.

The City supports the general intent of the Province to streamline processes to assist in increasing the supply of housing and meeting the Province's goal of building 1.5 million homes. However, City Planning staff do not support province-wide performance standards for Additional Residential Units, as they are unable to address context specific conditions. The City of Toronto had adopted permissions and performance standards for ARU's after extensive evaluation and consultation and have refined the regulations through ongoing monitoring.

City Planning staff understand that the amendment is proposed to apply to all lots with permissions for development of 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* 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. As a result, the proposed amendment would apply to all residentially zoned lots in the City of Toronto.

City Planning staff understand that the proposed amendment recommends overriding five performance standards in municipal zoning by-laws with the intention of facilitating the creation of Additional Residential Units (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 City of Toronto city-wide Zoning by-law includes regulations to effectively permit laneway and garden suites, secondary suites, and multiplexes while balancing neighbour proximity issues, mitigate rainwater runoff and maintain access to greenspace. Staff do not support the proposed amendments to override requirements for angular planes, the increase in lot coverage permissions, reduction in the separation distance between the main residential building and ancillary ARU building and increased maximum Floor Space Index (FSI) permissions. The proposed changes have the potential to undermine zoning regulations to permit ARUs that take into account considerations of privacy, access to sunlight, protection of tree canopy and soft landscaping, as well as stormwater run-off and biodiversity.

City Planning staff provide the following responses to each proposed performance standard:

## **1. Angular Plane**

Proposal: Override all angular plane requirements in zoning by-laws for buildings with ARUs

Background:

The intent is to facilitate the creation of ancillary buildings with a laneway or garden suite by no longer permitting municipal zoning by-laws to require an angular plane. Multiplexes are not subject to angular plane performance standards in Zoning By-law 569-2013 and are therefore not affected by the proposed amendment.

Zoning By-law 569-2013 defines angular plane as an imaginary flat surface projecting over a lot, at an inclined angle measured up from the horizontal. The use of angular plane has been introduced to assist in limiting the mass of a building, to assist in maintaining good sunlight access on surrounding properties, particularly during the spring through to the fall equinoxes, when plants, gardens and rear yard amenity are most sensitive to shadow impacts. This is particularly important on small and narrow lots in older parts of the city.

### *Angular Plane Regulations for Garden Suites*

Garden suite angular plane performance standards require a 45-degree angular plane on all four main walls above the first storey (e.g. above 4 metres). The angular planes seek to mitigate the impact of additional building height above the current as-of-right ancillary building permissions, limiting impacts on adjacent properties, and providing space for tree canopy growth.

An angular plane is not required on the sides of a garden suite that abut a public street. In contrast to laneway suites, garden suites do not have a public lane separating the abutting lot. For this reason, the requirement for angular planes on all four main walls above the first storey seeks to decrease the visual impact of a two-storey garden suite on adjacent lots as there is less space between the suite and the abutting rear yard than a laneway suite.

Dormers and vertical extensions of the main wall may extend into a required angular plane on the front main wall of a garden suite facing the main house if it occupies no more than 30 percent of the total width of the garden suite. This allows more livable space on the second storey while still limiting visual impacts on adjacent lots.

The most common minor variance applications for garden suites are amendments to angular plane requirements. However, most of these applications have been to decrease the angular plane requirements to apply to only two main walls instead of all four. Simplification of the angular plane requirement for garden suites is being reviewed as part of the monitoring work currently underway. Additional information regarding the Garden Suites Monitoring work will be brought forward in a report to Planning and Housing Committee in early 2025.

#### *Angular Plane Regulations for Laneway Suites*

Laneway suites require a 45-degree angular plane on the main wall of a laneway suite facing the main building above the first storey. The intent of the angular plane is to mitigate impacts of overlook and privacy into adjacent yards.

Lots abutting a public lane are permitted to have an ancillary laneway garage with no side yard setbacks. As this is the prevailing built form condition along laneways, no angular plane is required on the side walls. In addition, no angular plane is required on the rear main wall of a laneway suite as the public lane provides an appropriate distance between the laneway suite and the adjacent rear lot.

The 2021 monitoring report on laneway suites did not recommend changes to the required angular plane regulations as this was not a commonly requested minor variance.

#### **Staff Comments:**

City Planning staff do not support this change as the requirement for angular plane(s) on garden and laneway suites assist in limiting the mass of a building, reducing impacts on privacy and overlook, and maintaining sunlight access on surrounding properties, particularly during the spring through to the fall equinoxes, when plants, gardens and rear yard amenity are most sensitive to shadow impacts. Angular planes are particularly important on small and narrow lots in older parts of the city to reduce these impacts while effectively supporting the implementation of ARU's.

## 2. Maximum Lot Coverage

Proposal: Allow at least 45% lot coverage for all buildings and structures on parcels with ARUs

Background:

Zoning By-law 569-2013 defines lot coverage as the portion or percentage of a lot covered by buildings or structures. The proposed amendment to lot coverage performance standards is proposed to apply to lots that include at least one ARU. As a result, this amendment would apply to all low rise residential lots zoned R, RD, RS, RT and RM.

The intent of the proposed amendment is to make it easier to build ARUs in ancillary buildings, as well as the primary residential building by permitting increased lot coverage to accommodate more units. This proposes a single lot coverage value for all residential buildings on a lot with ARUs (i.e. a secondary suite, multiplex, garden suite or laneway suite).

Maximum lot coverage regulations are included as part of residential performance standards to ensure a portion of open space in the yard for amenity space, soft landscaping for outdoor space and rainwater infiltration to assist in mitigating stormwater overland flow, as well as tree protection. In Toronto, 52 percent of Residential Zones are subject to lot coverage regulations, and of those, 99 percent have lot coverage permissions that are greater than 25 percent overall. When this is combined with the lot coverage permissions for garden suites (20%) or laneway suites (30%) this would mean that nearly all of the city has permissions for 45 percent or greater lot coverage when an ARU is developed. However, the city-wide Zoning By-law calculates lot coverage permissions separately for the primary residential building and ancillary buildings with an ARU (garden suites and laneway suites). The proposed amendment would override the city-wide Zoning By-law and instead permit a maximum lot coverage of 45 percent for the entire lot.

Staff Comments:

The proposed amendment will override lot coverage regulations for primary residential buildings on all residential lots, including for detached or semi-detached homes regardless of whether they contain an ARU in the form of a secondary suite, multiplex (up to four units), or an ancillary ARU such as a laneway or garden suite. While the cumulative lot coverage permissions for residential lots with a laneway or garden suite can be at or above 45 percent coverage, the lot coverage permission is not applicable to detached or semi-detached buildings without an ARU.

Staff are concerned that the proposed amendment would override lot coverage regulations for all buildings on the same residential lot - such as lot coverage limits that apply to detached or semi-detached homes, regardless of whether they contain an ARU -- and would result in significantly increased permissions for larger primary buildings on all

residential lots. The proposed change to increase lot coverage for the lot, will reduce open space available for soft landscaping, tree maturation, and stormwater infiltration all of which are counter to the City's policies to address the climate emergency and to mitigate overland flooding. Staff do not support this change to lot coverage performance standards.

### **3. Floor Space Index (FSI)**

Proposal: Override all FSI requirements in zoning by-laws that apply to parcels with ARUs

Background:

Zoning By-law 569-2013 does not define FSI, but this term is commonly understood to represent the ratio of gross floor areas of all buildings on a lot, divided by the lot area. FSI is used to regulate the density of a building relative to lot size and is expressed as a ratio of a building's gross floor area to the lot area. Zoning By-law 569-2013 defines Gross Floor Area (GFA) as the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level. FSI regulations were carried over from former municipal zoning by-laws and do not currently apply in residential zones in many parts of the city.

Staff Comments:

The proposed amendment's intent is to make it easier to build structures with more livable space, including ancillary buildings and laneway and garden suites on existing lots. Toronto's zoning by-laws do not limit the FSI of garden suites, laneway suites or multiplexes. Staff are concerned that the proposed amendment would override FSI regulations for all other buildings on the same residential lots -- such as those FSI limits that apply to detached or semi-detached homes -- and would result in significantly increased permissions for larger primary buildings on all residential lots. This is counter to the City's objective to enable ARUs while balancing impacts on the City's tree canopy, soft landscaping, and as stormwater runoff, and does not seem to be consistent with the intent of the proposed regulation.

### **4. Building Distance Separation**

Proposal: Restrict building distance separation requirements associated with any building containing ARUs to a maximum of 4 metres

Background:

Zoning By-law 569-2013 does not define separation distance but applies the commonly understood application of the distance between main walls of adjacent buildings, or between main walls of buildings and other significant features on a lot, such as shoreline hazard limits. Both the garden suite and laneway suite regulations require a minimum

building separate distance between the main residential building and the ancillary building containing the laneway or garden suite.

The proposed amendment would override existing zoning by-law performance standards of 5-metres separation distance for single storey ARUs and 7.5 m for two-storey ARUs. Staff do not support the proposed amendment as it will undermine the zoning by-law permissions to permit ARUs in ancillary buildings while balancing impacts to privacy, amenity space, access to sunlight, stormwater runoff and biodiversity.

#### Staff Comments:

The City's zoning standards for separation distance is grounded in a study that considers typical lot sizes and configurations within Toronto. The Garden Suite monitoring work has found that as of the writing of this report, approximately 19 of the 350 applications for garden suites have applied for minor variances to separation distances – less than 6 percent of proposals. These projects are located on residential lots with atypical conditions, such as a corner lot with the garden suite beside the main building, existing ancillary garage conversions, or technicalities as to where the distance is measured. The proposed regulation is unnecessary and does not consider local conditions.

## 5. Minimum Lot Size

Proposal: Override all minimum lot size/lot area requirements that are specific to parcels with ARUs

#### Background:

The city-wide Zoning By-law 569-2013 applies the term lot area instead of lot size. Lot area is defined in the by-law as the horizontal area within all the lot lines of a lot, which is the same as the definition included in the proposed amendment for lot size. The proposed amendment seeks to remove minimum lot size requirements for ARUs to enable the same lot size standards apply to a house with or without an ARU.

The city-wide Zoning By-law does not include minimum lot size (lot area) performance standards for garden or laneway suites, or other residential development through this type of performance standard and the proposed amendment will have no impact. Staff do not have a concern about this proposed amendment.

## Conclusion

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. Each introduction of permissions for ARUs through the EHON Initiative includes 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.

The City has seen good uptake of ARUs. 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.

There may be other factors apart from zoning permissions that affect the rate of uptake of ARUs including the COVID-19 pandemic, increased interest rates, ability to obtain financing, cost of materials and labour, and personal circumstances of property owners. Additionally, while all of the residential properties in Toronto have some or all of the permissions to add ARUs, not every property owner is interested in being a landlord.

City staff recommend the proposed amendments to remove requirements for angular planes, reduction of building separation distance, lot coverage and floor space index not be implemented. In addition, staff recommend providing a longer commenting period to effectively understand the content and provide comments with City Council and public input. Lastly, City staff request further information on how the province will support implementation, monitoring, and transition if the regulation comes into effect.

Sincerely,

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Kyle Knoeck, M.Sc.Pl., MCIP, RPP  
Interim Chief Planner and Executive Director  
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