

## C. ACCESSORY APT. REGULATIONS – RRA S.O.1994

### ONTARIO REGULATION 384/94 Made under the PLANNING ACT

Made: June 23, 1994

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#### APARTMENTS IN HOUSES

##### Definitions

1. (1) In this Regulation,

“building” means an enclosed structure permanently erected at one location, the various components of which are linked, at least above grade;

“grade”, in respect of a house, means the average elevation of the ground adjacent to the exterior walls on any side of the house;

“installation of a second residential unit”, with respect to a house, means the creation of a second residential unit in the house regardless of whether the physical alteration of a house containing one residential unit is required to create two residential units, and includes associated alterations to the property on which the house is located.

“planning document” means,

- (a) an approved official plan,
- (b) a by-law passed under section 31 or 34 or subsection 38 (1) or section 41 of the Act, or
- (b) an order issued under section 47 (1) of the Act;

(2) This regulation applied in respect of detached houses, semi-detached and rowhouses.

##### Classes of Houses

2. (1) Subject to subsection (2), Clause 16 (2) (a), subsection (3.1) and clause 35 (1) (a) of the Act apply to the following classes of houses:
  1. A detached house, if it occupies the whole of a building.
  2. A semi-detached house if,
    - (i) it occupies part of a building, where the remainder of the building is occupied by another semi-detached house and the two houses are divided on the vertical plane in such a manner that there is no internal access from one semi-detached house to the other, and
    - (ii) it has not been created through the alteration of a detached house.
  3. A rowhouse if,
    - (i) it occupies part of a building, where the remainder of the building is occupied by two or more rowhouses and the rowhouses are divided on the vertical plane in such a manner that there is no internal access from one to any other, and
    - (ii) it has not been created through the alteration of a detached or semi-detached house.
- (2) A house belongs to one of the classes set out in subsection (1) only if,
  - (a) it consists of space currently used for, or intended for use for, primarily residential purposes;
  - (b) it contains one or two residential units;
  - (c) it is not ancillary to any other house or use; and
  - (d) it is located in a zone that permits residential use other than as an ancillary use.
- (3) Subsections (1) and (2) apply to a house regardless of whether the house is constructed before or after the day section 49 of the *Residents' Rights Act 1994*, is proclaimed in force and, in the case of a house with two residential units, regardless of whether,

- (a) the installation of the second residential unit occurs before or after the day that section 49 of the *Residents' Rights Act, 1994* is proclaimed in force; or
- (b) the installation of the second residential unit occurs at the time of the original construction of the house.

#### Sewage Exemption

- 3. Those houses serviced by the following classes of sanitary, septic or sewage systems are exempt from the application of clause 16 (2) (a), subsection 31 (3.1) and clause 35 (1) (a) of the Act:
  - 1. Sewage systems as defined in Part VIII of the Environmental Protection Act.
  - 2. Sewage works that are regulated under section 53 of the *Ontario Water Resources Act* and that are not owned or operated by a municipality or the Province of Ontario.

#### Bruce Nuclear Facility Exemption

- 4. Those parts of Bruce and Kincardine townships that are within the boundaries of the Controlled Development Area identified on Schedule "A" of the Bruce County South Official Plan as approved on June 23, 1982 and September 28, 1984 are exempt from the application of clause 16 (2) (a), subsection 31 (3.1) and clause 35 (1) (a).

#### General Rule

- 5. Except as provided for in sections 6 through 16, no planning document shall apply to a detached house, semi-detached house or rowhouse containing two residential units standards that are more restrictive or onerous than standards which would apply to a detached house, semi-detached house or rowhouse, as the case may be, that contains one residential unit and is at the same location.

#### Installation and Renovation of Second Units

- 6. (1) For the purposes of this section, "building envelope" in respect of a building means the three dimensional area within which the building may be erected, located or used as determined by the application of standards in planning documents.
- (2) No planning document shall prohibit,

- (a) exterior alterations required for the installation of a second residential unit in a house; or
- (b) the alteration of a house containing two residential units,

unless, as a result of those alterations, the house would contravene standards in the planning documents which relate to the building envelope of the house.

- (3) Despite subsection (2), a planning document may,
  - (a) restrict exterior alterations to the front façade of a house or any other façade that faces a public road that abuts the frontage, as identified in a planning document, of the property relating to the house; and
  - (b) regulate the minimum distance between a window in a house and any other window which it faces.
- (4) Subject to subsection (7), no planning document shall prohibit the installation of a second residential unit in a house on the basis that the house, but for subsection 34 (9) of the Act, would contravene a standard in the planning document.
- (5) Subject to subsection (7), no planning document shall prohibit the continuing use or the renovation of a house described in paragraph 2 of subsection 2 (1) on the basis that,
  - (a) the house was originally built to include two residential units and the house, but for subsection 34 (9) of the Act, would contravene a standard in the planning document; or
  - (b) the installation of a second residential unit was undertaken in compliance with the planning documents then in effect, but the resulting house containing two residential units, but for subsection 34 (9) of the Act, would contravene a standard in the planning document.
- (6) Subject to subsection (7), no planning document shall prohibit the installation of a second residential unit in a house on the basis that an alteration to the interior of a house would result in contravention of or would extend or enlarge an existing contravention of standards in a planning document which have the effect of regulating,

- (a) the permitted number of location of floors in the house used or capable of being used for human habitation;
- (b) the relationship between the area of a house which can be used for human habitation and the area of the property on which the house is located; or
- (c) the maximum area of a house which can be used for human habitation.

7. Subsections (4), (5) and (6) only apply,

- (a) where there is no exterior change to the house;
- (b) where, as a result of an exterior change, the house does not contravene any standard in the planning documents related to the building envelope of the house; or
- (c) if, but for subsection 34 (9) of the Act, the house would contravene standards in the planning documents related to the building envelope of the house, where no exterior change to the house will create a greater contravention of any of those standards.

#### Size of Units in Houses with two Units

- 7. (1) In this section, “habitable floor area”, in respect of a residential unit, means its floor area measured from the inside walls of the unit, but does not include,
  - (a) unfinished areas below grade,
  - (b) areas occupied by furnaces, hot water heaters and laundry equipment,
  - (c) rooms, other than rooms used for sanitary or cooking purposes, that have no natural lighting, and
  - (d) area which cannot be heated to municipal standards or, in the absence of municipal standards, to the standards in the regulations under the *Rent Control Act*.
- (2) No planning document shall require that a residential unit in a house containing two residential units exceed the habitable floor area requirements set out in the following Table:

TABLE  
 MAXIMUM MINIMUM UNIT AREA REQUIREMENTS

<b>Residential unit type</b>	<b>Maximum required habitable floor area</b>
Studio (bachelor)	25 m. sq.
1 bedroom	32 m. sq.
2 or more bedrooms	32 m. sq. as required for a one bedroom unit plus 9 m. sq. for each additional bedroom.

- (3) In the case of a house containing two residential units, no planning document shall regulate the relationship between the size of the two residential units.

Size of house

8. No planning document shall require that a house containing two residential units have a minimum size or floor area that exceeds the minimum size or floor area requirement for a house containing one residential unit.

Unit Density

9. No planning document shall prohibit the installation of a second residential unit in a house on the basis that such an installation would mean that the maximum number of units permitted per hectare or acre or permitted for a particular geographic area is exceeded.

Age of Structure

10. No planning document shall require, as a precondition to the installation of a second residential unit or the continued use of two existing residential units in a house.
- (a) that it be constructed before or after a certain date; or
  - (b) that it be at least or no more than a certain age.

Units below Grade

- 11.** Subject to section 13, in the case of a house containing two residential units, no planning document shall,
- (a) prohibit the location of one residential unit below grade;
  - (b) require that the floor of a residential unit be located less than a certain distance below grade;
  - (c) require that the ceiling of a residential unit be located at least a certain distance above grade; or
  - (d) require that a certain proportion of the wall area of a residential unit be located above grade.

#### Amenity Area

- 12.** (1) In this section, “amenity area”, in respect of the property on which a house is located, means the outdoor area intended for active or passive recreational use or aesthetic purposes and may include landscaped areas, patios and decks.
- (2) In the case of a house containing two residential units, no planning document shall require that,
- (a) two separate amenity areas be provided;
  - (b) one or both units have direct access to any amenity area; or
  - (c) the size of the amenity area exceed the requirement applied to a house with one residential unit at the same location.

#### Flood Plains

- 13.** (1) In this section,
- “flood plain” means,
- (a) areas susceptible to flooding during a regional storm as set out in maps referred to in regulations made under section 28 of the *Conservation Authorities Act* relating to the applicable conservation authority,
  - (b) if no conservation authority regulation is in place that refers to maps, areas identified as being susceptible to flooding in a planning document, or

- (c) if no conservation authority regulation is in place that refers to maps and no areas are identified as being susceptible to flooding in a planning document, areas susceptible to flooding during a regional storm as referred to in regulations made under section 28 of the *Conservation Authorities Act* relating to the applicable conservation authority.

“floodfringe” means the outer portion of the flood plain between the floodway and the limit of the regulatory flood;

“floodway” means that portion of the flood plain that is a channel of a watercourse or the inner portion of the flood plain;

“special policy area” means an area within the limit of the regulatory flood that the Minister of Municipal Affairs and the Minister of Natural Resources have identified in an Official Plan an area where limited development is permitted to occur.

- (2) This regulation does not apply to standards in planning documents which prohibit the installation of a second residential unit in a house if the house is located within the boundaries of,
  - (a) a floodway identified in mapping which covers all or part of a flood plain and which specifies the location of the floodfringe and the floodway, where the mapping is,
    - (i) completed or approved by a conservation authority or the Ministry of Natural Resources, or
    - (ii) completed or approved by a municipality and approved by a conservation authority or the Ministry of Natural Resources; or
  - (b) a flood plain where,
    - (i) mapping referred to in clause (a) does not exist, and
    - (ii) the house is not located within a special policy area which permits residential use.
- (3) Subject to subsection (4), this Regulation does not apply to standards in planning documents which require that houses with two residential units meet specified floodproofing standards or standards which prohibit an increase in the habitable area of a house if the house is located within the boundaries of,

- (a) a floodfringe identified in mapping referred to in clause (2) (a); or
  - (b) a special policy area.
- (4) Subsection (3) does not apply unless the standards are applied to all alterations to houses, whether or not there has been an installation of a second residential unit.

#### Parking

- 14.** (1) In this section, “driveway” means an area on a property with access to a public or private road where,
- (a) the area has a surface suitable for the movement and storage of automobiles,
  - (b) the area is used for the parking of automobiles or to gain access to a parking area for automobiles,
  - (c) the area is for the exclusive use of the occupants of one house, and
  - (d) the house is located on the same property.
- (2) No planning document shall require that the property on which a house containing two residential units is located have more than two parking spaces.
- (3) Where parking documents relating to a house do not contain any standard for parking spaces for a residential unit in the house that results from the installation of a second residential unit, the standard shall be deemed to be one parking space for the second residential unit unless, in the result, the property on which the house is located would then be required to have more than two parking spaces.
- (4) If a planning document sets a standard for parking spaces to be located on the property on which a house containing two residential units is located,
- (a) parking spaces that are situated in such a manner that it is necessary to traverse one space to gain vehicular access to the other from a public or private road shall be considered in the same manner as parking spaces that are not so situated;

- (b) subject to subsections (5) and (6), parking spaces that are not located in a garage or other enclosed space shall be considered in the same manner as parking spaces that are located in a garage or other enclosed space; and
  - (c) parking spaces that are located in the driveway shall be considered in the same manner as parking spaces which are not located in the driveway.
- (5) No planning document shall require that the width of a driveway for a house containing two residential units be greater than the lesser of 6.56 metres or 50 per cent of the narrowest frontage of the property on which the house is located.
- (6) A planning document may require that a parking space required to meet the on-site parking requirement for a house containing two residential units be located in a garage or other enclosed space if,
- (a) a building permit for the house is issued after the day section 49 of the *Residents' Rights Act, 1994* is proclaimed in force and contains two residential units both of which are built at the time of construction; and
  - (b) the planning document requires that the same standard in respect of the provision of a garage or other enclosed space be applied to a house with one residential unit.
- (7) A planning document may require that existing parking spaces located in a garage or other enclosed space be maintained upon the installation of a second residential unit if,
- (a) the spaces are required to meet the on-site parking requirement applicable to the house; and
  - (b) the planning document requires that the same standard in respect of the provision of a garage or other enclosed space be applied to a house with one residential unit.

#### General

- 15.** (1) An information to obtain a search warrant under section 49.1 of the Act shall be in Form 1.
- (2) A search warrant under section 49.1 of the Act shall be in Form 2.

16. This Regulation comes into force on the day section 49 of the *Residents' Rights Act, 1994* is proclaimed in force.