

ONTARIO HB 2001 & HB 2003 UPDATES

Winterbrook Planning | September 9, 2020

Statutory Code Audit and Proposed Code Amendments

The following code changes address state requirements that require:

- (a) A duplex be allowed on a lot subject to the same development standards as detached single-family dwelling (HB 2001);
- (b) An accessory dwelling unit (ADU) be allowed on a lot that has only one existing single-family dwelling (ORS 197.312(5));
- and
- (c) A manufactured home be allowed on any lot zoned for detached stick-built single-family residences – subject to statutory design standards (ORS 197.314.(1)).

Code Section	Revised Code Text in Legislative Format	Commentary
CHAPTER 10A-03 DEFINITIONS		
10A-03-74 DWELLING	Any room or group of rooms located in a residential building forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation of one family, not including motel or hotel units. The installation of an additional gas, electric or water meter or separate sewer service is evidence of establishment of an additional dwelling unit. Dwelling unit types are defined below.	<i>The definitions of “dwelling” and “dwelling unit” are combined for simplicity. Types of dwelling units are listed immediately below. Several new definitions are suggested. Most are based on statutory or state administrative rule definitions.</i>
10-03-74-A NEW: DWELLING, ACCESSORY UNIT (ADU)	An interior, attached, or detached dwelling unit that is accessory to the primary single-family detached dwelling on a lot or parcel. An ADU has a gross floor area that is (a) 1,200 square feet or less <u>and</u> (b) less than the primary single-family dwelling on the lot or parcel. (See also duplex dwelling definition.)	<i>New definition of accessory dwelling unit to meet statutory requirement that ADUs be allowed as of right on lots with one detached single-family dwelling. (Definition reflects statutory definition for accessory dwelling unit – adapted to Ontario conditions.) In a sense, an ADU is a duplex dwelling that is smaller than (accessory to) the primary dwelling – whereas duplex dwellings must be a primary use in zones that allow single-family detached dwellings.</i>
10-03-74-B	A structure with three or more dwelling units that share common walls, floors or ceilings.	<i>This definition is based on the existing definition of multi-family dwelling found in 10-03-77. The definition of multi-family</i>

<p>NEW: DWELLING, APARTMENT</p>	<ul style="list-style-type: none"> • A “tri-plex” is a three-unit apartment. • A “four-plex” is a four-unit apartment. • A “courtyard apartment” is centered around a common courtyard of at least 30 feet in width. 	<p><i>dwelling below (draft 10-03-74-F) has been broadened to include three or more dwelling units of any type on a lot or parcel.</i></p>
<p>10-03-74-C NEW: DWELLING, COTTAGE CLUSTER.</p>	<p>A grouping of four to eight small detached dwelling units on a lot or parcel with (a) a common courtyard of at least 30 feet in width, (b) a footprint of 900 square feet per unit or less, and (c) a gross floor area of 1,800 square feet per unit or less.</p>	<p><i>New definition for cottage cluster, a type of multi-family housing that consists of small single-family detached homes, on a single lot, with a common courtyard. (Definition reflects State Statute – adapted to Ontario conditions.)</i></p>
<p>10-03-7674-D DWELLING, DUPLEX</p>	<p>A residential building of any configuration containing two Two primary dwelling units in any configuration on a lot or parcel, or two single-family dwellings attached. (See also ADU definition.)</p>	<p><i>Revised definition distinguishes between a duplex dwelling (two primary dwellings on a lot), an attached single-family dwelling (one dwelling connected unit on a lot), and an accessory dwelling unit (a unit that is smaller than and therefore accessory to the primary dwelling on a lot). See related definitions..</i></p>
<p>10A-03-134 –74-E DWELLING, MANUFACTURED HOME</p>	<p>A single-family detached dwelling structure that has a A single-family detached dwelling structure that has a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended; has plumbing and cooking facilities, is intended for human occupancy, and is intended for use as a residence.</p>	<p><i>Revision makes it clear that a manufactured home is a type of single-family dwelling. (Definition reflects State Statute)</i></p>
<p>10A-03-75-74-F DWELLING, MULTI-FAMILY</p>	<p>A group of three or more dwelling units of any type on a lot or parcel. designed for or occupied by more than two (2) families living independently of each other.</p>	<p><i>Revision includes all housing types. This change allows flexibility to develop any type of housing based on market demand.</i></p>
<p>10A-03-75 -74-G DWELLING, SINGLE- FAMILY, ATTACHED.</p>	<p>A row of two or more adjoining dwelling units, each of which is separated from the others by one or more unpierced walls extending from the ground or roof. Such dwellings are often known as townhouses, where each dwelling unit is located on an individual lot and shares at least one common wall with an adjacent unit. (Also known as a “rowhouse”.)</p>	<p><i>This change recognizes that attached single-family dwellings typically are located on separate lots which allows greater opportunity for affordable homeownership. (Definition reflects State Statute – adapted to Ontario conditions.)</i></p>
<p>10A-03-78 –74-H DWELLING, SINGLE FAMILY, DETACHED</p>	<p>A residential building designed for and occupied by not more than one family and surrounded by open space or yards and having no roof, wall or floor in common with any other dwelling unit. A detached dwelling unit on a lot or parcel, either site-built or a manufactured home.</p>	<p><i>Revision simplifies definition. Note that the new definition of detached single-family home – includes either a site-built or a non-site-built (manufactured off site) home on a lot or parcel – which is consistent with state administrative rules. (See also definitions of “cottage cluster” which includes size limitations.)</i></p>

CHAPTER 10A-11 - RS-50, SINGLE-FAMILY RESIDENCE ZONE		
10A-11-01 - PURPOSE.	To provide and maintain residential areas of predominantly owner-occupied single-family detached and duplex dwellings at relatively high densities for these housing types.	<i>Revision includes duplexes. Oregon law does not allow cities to regulate dwelling unit tenure (ownership vs. rental). However, homeownership is encouraged by allowing both single-family detached and attached dwellings. (See space limits table below.)</i>
10A-11-05 - PRINCIPAL PERMITTED USE.	The following principal uses are permitted as of right in the RS-50 Zone: 1. Single-family detached and duplex dwellings.	<i>Revision adds a duplex dwelling as a permitted use on a 5,000 square foot lot in the RS-50 zone, as required by HB 2001.</i>
10A-11-10 - CONDITIONAL USES.	The following are permitted conditionally in the RS-50 Zone: 1. Private stables, corrals and paddocks which meet the standards set forth in RS-80 Zone. 2. Utility facilities, other than distribution lines, at a specific location necessary for the functioning of that utility. 3. Duplex dwelling as defined herein.	<i>Revision removes duplex as a conditional use as required by HB 2001 which requires "clear and objective" approval standards for duplexes.</i>
CHAPTER 10A-13 - RD-40, DUPLEX RESIDENCE ZONE		
10A-13-10 - CONDITIONAL USES.	The following uses are permitted conditionally in the zone: 1. Utility facilities other than distribution lines at a specific location necessary for the functioning of that utility. 2. Two additional multiple-family dwellings containing not more than four dwelling units on a lot or parcel, or not more than four single-family dwellings, attached, or two family structures, attached, or any combination thereof. 3. Rooming house as defined herein.	<i>Revision makes it clear that two additional dwelling units may be approved through the conditional use process to provide more market flexibility. Two dwellings are allowed outright on a RD-40 lot. No more than 4 dwelling units total are allowed conditionally on a lot in the RD-40 zone.</i>
CHAPTER 10A-19 - R-MH, MANUFACTURED HOME RESIDENCE ZONE		
10A-17-05 - PRINCIPAL PERMITTED USES.	The following principal uses are permitted as of right in R-MH Zone: 1. Single-family detached and duplex dwellings constructed to RD-40 Zone standards. 2. Home occupations meeting the standards herein. 3. Manufactured or mobile home parks. 4. Manufactured or mobile home subdivisions.	<i>Revision includes single-family attached duplex dwellings as permitted uses. Duplexes must be allowed outright per HB 2001. Attached single-family dwellings provide a homeownership option on smaller lots. See Space Limits Table below.</i>

CHAPTER 10A-21 - R-MHO, MANUFACTURED HOME RESIDENCE OVERLAY ZONE				
PURPOSE 10A-21-01	To provide an overlay zone designed to apply concurrently with all residential zones that to allow single-family detached that applies to all residential zones that to allow single-family detached manufactured homes on individual lots, subject to objective design standards. random single development sites.			<i>Revision provides makes it clear that the manufactured housing overlay zone applies to all residential zones where a single-family detached home is allowed outright.</i>
CHAPTER 10A-25 RESIDENTIAL ZONES, SPACE LIMITS TABLE				
10A-25-01 - PURPOSE AND APPLICABILITY.	The specifications for minimum yard space, height, lot dimensions and other attributes, pertaining to structures or permitted uses, in the following table shall apply to all developments in the applicable zone.			<i>Revisions in the tables below result in the same area requirement for duplexes as single-family detached and allowed for single-family attached (row houses on individual lots) to be constructed at the same density as duplexes in Ontario's residential zones.</i>
Item Regulated	Residential Zones			Commentary
	RS-50	RD-40	RM-10	
Maximum height in feet	38	38	None	
Minimum lot size site area per dwelling unit in square feet				<i>Change focuses on minimum lot sizes rather than site (land) area per housing unit. The change is necessary because HB 2001 and its administrative rule focus on dwelling units allow on lots and parcels.</i>
Single-family detached and duplex dwellings	5,000	4,000	5,000	<i>HB 2001 requires that duplexes be allowed under the same development standards as detached single-family dwellings. The existing 4,000 square-foot standard is applied on a per</i>

Item Regulated	Residential Zones			Commentary
	RS-50	RD-40	RM-10	
				<i>unit basis, requiring 8,000 sq. ft. for a duplex in the duplex zone.</i>
Duplex	5,000	3,000	3,000	<i>HB 2001 requires that local governments allow duplex dwellings subject to the same development standards as single-family detached dwellings.</i>
Single-family attached	5,000 2,500	3,000 2,250	2,000	<i>Single-family attached housing provides an option for home ownership on smaller lots than typically required for single-family detached units. Since duplexes are allowed on lots of 4,000 to 5,000 sq. ft. (2,000 to 2,500 sq. ft. per unit) it makes sense to allow single-family rowhouses (attached single-family) on lot sizes typical of rowhouse developments.</i>
Multi-family (3+) Minimum lot area required for each additional dwelling unit (3+)	Not applicable	3,000 2,000	1,000	<i>Up to four units (two more than allowed as of right) are allowed in the RD-40 zone through the conditional use process. To create a gradual transition from RD-40 to RM-10, we recommend decreasing the minimum area for units 3 and 4 in the RS-40 zone from 3,000 sq. ft. to 2,000 sq. ft.</i>
Minimum yard requirement in feet (setback)				

Item Regulated	Residential Zones			Commentary
	RS-50	RD-40	RM-10	
Front yard or any yard with primary entrance	15	15	15	<i>Revision takes into consideration the siting of duplexes on corner lots.</i>
Front Yard with Rear Parking	10	10	10	<i>This standard encourages parking in the rear of a lot, which reduces the visual impact of higher density housing from the street.</i>
Side yard*	7	5	5	<i>“*” prevision allows exemptions for single-family attached (rowhouses).</i>
Rear yard**	10	10	10	<i>“**” prevision allows exemption for parking with alley access.</i>
Minimum lot width in feet	50	50	50	<i>No change.</i>
Minimum lot width in feet for attached single family (row house) dwellings	25	22.5	20	<i>To allow the potential for owner-occupied attached single-family (rowhouses) we recommend allowing narrower lot widths for this type of housing. Note that this change is not required by statute – but does allow more opportunity for single-family home ownership.</i>

Item Regulated	Residential Zones			Commentary
	RS-50	RD-40	RM-10	
Maximum dwelling units per gross acre***	14	18	31	<i>This is a new calculation based on information in the table above. The formula for determining gross density assumes that 20% of the site will be dedicated for public right-of-way and that the first two units consume 5000 square feet.</i>

* Side yard requirement reduced to zero where single-family dwellings are attached.

** Parking allowed in rear yard with alley access.

*** Assumes 20% public ROW dedication.

The minimum development site for a building project in any zone shall be as set forth below, provided, however, greater lot area may be required to comply with the minimum lot area per housing unit set forth for the zone in which the project is located:		Commentary
Single family detached dwelling	4,000	<i>This table is no longer needed because minimum site/lot area requirements are addressed in the table above.</i>
Two or more family dwelling	6,000	
Single family attached dwellings	6,000 initial project	

Chapter 10A-53 ACCESSORY USES AND STRUCTURES		
10A-53-10 - ACCESSORY USES OR STRUCTURES, SPECIFICALLY AUTHORIZED	Permitted accessory uses and structures include but are not limited to the following: <ol style="list-style-type: none"> Private garages, parking lots, loading docks and driveways. An accessory dwelling unit (ADU as defined in 10A-03 Definitions). An ADU is not permitted if two dwelling units already exist on a lot or parcel. 	<i>Revision allows ADUs on all lots that contain a detached single-family dwelling. This revision applies to City zones and URA zones, as required by state statute.</i>
10A-57-60 - OFF-STREET PARKING AND LOADING REQUIREMENTS		
10A-57-65 - APPLICABILITY, INTERPRETATION.	<ol style="list-style-type: none"> Every parking or loading space counted toward a requirement shall have independent access to a clear driveway, alley or street. Exception: except that the required parking for a single-family or duplex dwellings structure may shall have a single access unless an additional access is approved by the Community Development Director. controlled by the single-family occupants. 	<i>Revision allows duplexes the same access exceptions as single-family dwellings, limits access to public street and allows the community development director to make an exception where warranted.</i>
10A-57-65 - APPLICABILITY, INTERPRETATION.	<ol style="list-style-type: none"> Required parking spaces shall not be a required front yard except that both spaces for a single family residence may be in a required front yard, and one required parking space for a two-family residence may be in a required front yard. Parking spaces shall not be allowed in a front yard except where approved by the Community Development Director for single-family and duplex dwellings. 	<i>Revision applies the same standard for duplexes and single-family dwellings related to required parking spaces may be allowed within front yard setbacks. To maintain an attractive street appearance, parking would not be allowed in front yards between the primary residential building or buildings and a public street. However, the Community Development Director has the discretion to exemptions to this standard.</i>
10A-57-75 - PARKING SPACES REQUIRED, GROUP A USES.	USE <ol style="list-style-type: none"> Dwelling, single-family or duplex. Dwellings, duplex or multi-family. 	<i>Revision creates the same parking requirements for duplexes as single-family dwellings (2 spaces).</i>
ONTARIO COMPREHENSIVE PLAN - PLAN CLASSIFICATIONS		
Plan Classification	Purpose	Commentary
Low Density Residential An average of 7-14 or fewer less dwelling units per acre.*	To provide areas suitable for single-family and duplex residential uses, including manufactured dwellings on individual lots, which have or will need public water and sewage services, commercial and educational support facilities and employment opportunities.	<i>Revision includes duplexes in plan purpose and recognizes that existing zoning allows more than 7 dwelling units per acre.</i>

PROPOSED ONTARIO HB 2001 AND RELATED HOUSING UPDATES

<p>NEW: Medium Density Residential An average of 8-18 dwelling units per acre.*</p>	<p>To provide areas suitable for single family, duplex and limited multi-family residential uses, which have or will need public water and sewage services, commercial and educational support facilities and employment opportunities.</p>	<p><i>This is a new classification that corresponds with to the RD-40 zone.</i></p>
<p>High Density Residential An average of 8-1831 or more or more dwelling units per acre.*</p>	<p>To provide areas suitable and desirable for all types of high-density residential development including apartments, manufactured dwelling parks, planned developments, and other multifamily dwelling units. Business offices may be allowed as a non-residential use, when approved by the Planning Commission, as a conditional use.</p>	<p><i>Existing RD-10 zone allows up to 31 dwelling units per gross acre.</i></p>

***Assumes 20% public ROW dedication.**