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Building an Accessory Dwelling Unit in a Main Residential Building – New Automatic Authorization System (Bill 31)

Bill 31, the *Act to amend various legislative provisions with respect to housing* (LQ 2024, c. 2) came into force on February 21, 2024.¹

The Act has a number of objectives, including better protecting tenants, countering rising rents, increasing and maintaining the supply of social housing, and introducing temporary rules to speed up the completion of housing projects.

Among the temporary rules introduced by Bill 31, there is one important provision that municipalities should be aware of.

Section 94 introduces an “as of right” system, valid for five years from August 21, 2024, under which an owner can build an accessory dwelling unit in a main residential building even if there is an urban planning by-law that prohibits it.

This automatic system will apply to accessory dwelling units inside main residential buildings (but not detached accessory dwellings, such as a building in the backyard), if they are within the municipality’s urbanization perimeter and outside an area where land use is subject to special constraints for public safety reasons.

Although the Act specifies that this system applies even if the accessory dwelling unit is not authorized by the planning by-laws, it does stipulate that the land use, building, architecture, parking, and development standards set out in the planning by-laws must remain applicable, unless the municipality decides to set different standards for accessory dwelling units.

It is important to note that, out of respect for municipal autonomy, the Act does allow municipalities to exempt all or part of their territories from this automatic authorization system through a by-law. It also stipulates that the adoption of this by-law is not subject to the *Act respecting land use planning and development*. As such, it is subject to the municipality’s standard regulatory regime as set out in the *Municipal Code of Québec* or the *Cities and Towns Act*.

Given this change, it is important for municipalities to start thinking now about whether they want to allow this system to apply on all or part of their territories.

If they fail to adopt a by-law by August 21 to partially or fully exempt their territories from this regime, starting on that date, citizens will be able to build accessory dwelling units in main residential buildings even if doing so is prohibited by the urban planning by-laws.

¹ At the time of writing, the official text of the Act was not yet available on the Publications du Québec website.

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