Professional Requirements for the Built Environment in Ontario

The Practice of Architecture: Protected Scope and Use of Titles

The *Architects Act*, R.S.O. 1990, c. A.26 (the Act) and Regulation 27 of Ontario law governs the practice of architecture and the use of the protected title "Architect" and "Licensed Technologist" in the province. It prohibits anyone who is not authorized by the OAA from using the titles if it will lead to the belief that the person may engage in the practice of architecture. It is also an offence[i] for an unlicensed person to offer or provide services within the protected scope of architectural practice, as defined by the Act and set out in greater detail below.

Within this protected scope, an OAA member must be retained as soon as project planning and design begins, however conceptual or schematic those services may be. For more information about working with an OAA member or the scope of their services, please refer to the OAA Website.

Regulatory Role of the OAA

The OAA's regulatory mandate includes taking legal action against those unlawfully providing architectural services and those who hold themselves out as Architects or Licensed Technologists.

Misrepresentation of the protected title "Architect" or "Licensed Technologist" and misleading claims or advertising (inadvertently or purposely) could lead the public to conclude they would be receiving architectural services from a authorized and regulated professional. Further, an unlicensed person or corporation providing architectural services to the public within the protected scope creates a risk to the client and the public. As such, it is within the OAA's public interest mandate to take corrective action by investigating and prosecuting potential breaches of the Act. While most of these investigations are resolved by way of a demand letter, the OAA may seek an injunction[ii] through the courts in the most serious cases and when there is a high level of risk to the public.

Application of the OAA Seal

An OAA member may be found guilty of professional misconduct if they accept requests from designers, builders, developers, and contractors to have construction documents sealed with the OAA seal if the designs were prepared by an unlicensed individual. Sometimes referred to a 'rubber stamping,' this activity is a contravention of the Act.

OAA members must use the professional seal issued to them by the OAA in accordance with the rules governing the use of professional seals contained in Regulation 27, under the Act and as further noted in Regulatory Notice RN.01. The OAA member's seal and signature on a document represents it was prepared in its entirety under the personal supervision and direction of an OAA member. Documents that have not been prepared in their entirety under the personal supervision and direction of an OAA member must not be sealed.

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Reporting Professional Misconduct or Illegal Practice

When in doubt, do not hesitate to contact the OAA to discuss whether Act applies to a particular project. Association staff will respond promptly to provide information about the legal requirements set out in the Act. While anyone may report a potential breach of the Act, members of the OAA are *required* to report unauthorized practice—failure to do so could result in a finding of professional misconduct.

If you are aware of a possible infraction of the Act or Regulation 27, you can determine if the individual or practice is registered with the OAA by searching the OAA Directory. In most cases, if the individual or practice is not listed, they are not affiliated with the OAA—however, temporary licences are issued to out-of-province architects who work on specific projects in collaboration with OAA members. These temporary licence holders are not listed in the Directory. Please contact the Office of the Registrar at officeoftheregistrar@oaa.on.ca if you have specific questions.

When Do You Need an OAA Member?

The Act establishes the legal authority for when an OAA member must be engaged for a project. While Ontario's Building Code is an important document, it does not establish which buildings are required to be designed by OAA members or the stage at which such services must be retained. Authorities having jurisdiction (AHJs) must also comply with this provincial law, which means not processing project applications for buildings requiring an Architect or Licensed Technologist if the submission has not been prepared under the direction and supervision of an OAA member. For more information about when a project requires an OAA member, please refer to the OAA's webpages When Do You Need an Architect and When Do You Need A Licensed Technologist.

The OAA works regularly with its members, as well as with engineers, planners, building officials, designers, and owners, to assist in determining whether a particular project—or project stage, such as formal application to a local government—must have an OAA member on the job. Not every building or application falls within the protected scope of work of an OAA member. The Act includes a number of "Exceptions" by which certain building types and sizes are exempted from the general requirement for design by OAA members. It is important to refer to the Act and its regulations to determine if and when an OAA member is required.

The Joint Bulletin by the OAA and the Professional Engineers of Ontario (PEO) provides a summary of the Design and General Review Requirements for Buildings in the Province of Ontario. The attached appendices provide convenient guides for understanding the Exceptions set out in the Act, as well as clarify the scope of practice for Licensed Technologists.

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Endnotes

i Penalties

46. (1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $25,000 and for each subsequent offence to a fine of not more than $50,000. R.S.O. 1990, c. A.26, s. 46 (1).

(2) Every person who is not a holder of a licence, certificate of practice, or temporary licence and who,

(a) uses the title "Architect" or "architecte" as an occupational designation;

(b) uses

(i) an addition to or an abbreviation of the title "Architect" or "architecte;"

(ii) an occupational designation; or

(iii) a term, title, addition, or description that will lead to the belief that the person may engage in the practice of architecture; or

(c) uses a seal that will lead to the belief that the person is an Architect;

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $10,000 and for each subsequent offence to a fine of not more than $25,000. R.S.O. 1990, c. A.26, s. 46 (2).

ii Proceedings to prohibit continuation or repetition of contravention

45. Where any provision of this Act or the regulations is contravened, despite any other remedy or any penalty imposed, the Association may apply to a judge of the Superior Court of Justice for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the court. R.S.O. 1990, c. A.26, s. 45; 2001, c. 9, Sched. B, s. 1 (9).

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Exceptions to the Exclusive Scope of Practice for an Architect

Not every building or design falls within the protected scope of work of an architect. The *Architects Act* includes a number of "Exceptions" by which certain building types and sizes are exempted from the general requirement for an Architect to prepare the design. These Exceptions are set out in Section 11(3) of the *Architects Act.*

The table below illustrates projects for which an Architect may be engaged, but may also be undertaken by certain qualified individuals.

Occupancy		Area and Height	Examples
Residential	Only	The preparation or provision of a design for a building that is not more than three storeys and not more than 600 m^2 in *gross area* as constructed, enlarged, or altered. *Architects Act* s.11(3)a See Diagram 2.	Small motel, boarding house, shelter, hostel, etc.
	Only	The preparation or provision of a design for a building that is not more than three storeys and that contains one *dwelling unit* or two attached *dwelling units*, each of which is constructed directly on *grade*. *Architects Act* s.11(3)b(i) See Diagram 3.	Single dwelling or semi-detached dwelling
	Only	The preparation or provision of a design for a building that is not more than three storeys and that is not more than 600 m^2 in *building area* as constructed, enlarged, or altered and contains three or more attached *dwelling units*, each of which is constructed directly on *grade*, with no *dwelling unit* constructed above another *dwelling unit*. *Architects Act* s.11(3)b(ii) See Diagram 4.	Townhouses
	Only	The preparation or provision of a design for alterations within a *dwelling unit* that will not affect or are not likely to affect fire separations, firewalls, the strength or safety of the building, or the safety of persons in the building. *Architects Act* s.11(3)f	Interior renovation of a *dwelling unit*
One or more of Residential, Business, Personal Services, Mercantile, Agricultural, or Industrial		The preparation or provision of a design for a building that is not more than three storeys and not more than 600 m^2 in *gross area* as constructed, enlarged, or altered. *Architects Act* s.11(3)a See Diagram 2	Dental office, barber shop, medical office, retail stores, shops, live/work units, etc.
All		The preparation or provision of a design for interior space for a building, including finishes, fixed or loose furnishings, equipment, fixtures, and partitioning of space, and related exterior elements such as signs, finishes, and glazed openings used for display purposes, that does not affect or is not likely to affect: (i) the structural integrity; (ii) a fire safety system or fire separation; (iii) a main entrance or public corridor on a floor; (iv) an exit to a public thoroughfare or to the exterior; (v) the construction or location of an exterior wall; or (vi) the usable floor space through the addition of a mezzanine, infill, or other similar element of the building. *Architects Act* s.11(3)e	Commercial interior tenant fit-up
Mining		The preparation or provision of a design for the construction, enlargement, or alteration of a building used directly in the extraction, processing, or storage of ore from a mine. *Architects Act* s.11(3)c	

Notes: Examples above are not an exhaustive list—please contact the OAA if you are unsure if a project requires an Architect.

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Definitions

Who may engage in practice of architecture?
No person shall engage in the practice of architecture or hold themselves or itself out as engaging in the practice of architecture unless:

(a) the person holds a licence or limited licence under the *Architects Act*;
(b) the person is the holder of a certificate of practice (CoP) or the person is doing so as a member of a partnership that holds a CoP; or
(c) the person is the holder of a temporary licence under this Act.

Who may provide service to public?
No person shall provide to a member of the public a service that is part of the practice of architecture except under and in accordance with a CoP or a temporary licence.

What does the "practice of architecture" mean?
The practice of architecture refers to:
(a) the preparation or provision of a design to govern the construction, enlargement, or alteration of a building;
(b) evaluating, advising on, or reporting on the construction, enlargement, or alteration of a building; or
(c) a general review of the construction, enlargement, or alteration of a building.

"Design" means a plan, sketch, drawing, graphic representation, or specification intended to govern the construction, enlargement, or alteration of a building or a part of a building.

"Gross area" means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls. In a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall. See Diagram 1.

"Building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls. See Diagram 1.

"Dwelling Unit" means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities.

"Grade" means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances.

"Firewall" means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating prescribed in the building code under the *Building Code Act* and has structural stability to remain intact under fire conditions for the fire resistance time for which it is rated.

Please refer to *Architects Act* and Regulation for full list of definitions.

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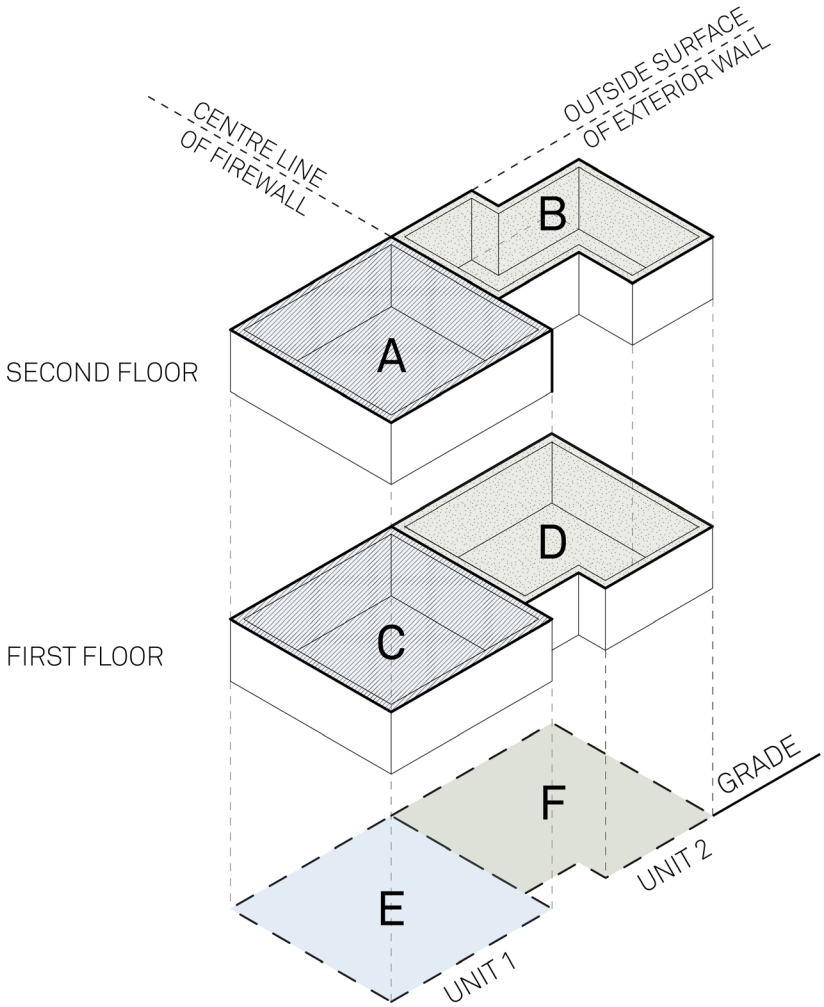
Diagram 1 - Building Area vs. Gross Area



GROSS AREA
FOR UNIT 1 = A+C
FOR UNIT 2 = B+D

BUILDING AREA
FOR UNIT 1 = E
FOR UNIT 2 = F

Definitions sourced from the *Architects Act* R.S.O. 1990, c. A.26:

"Gross area" means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls. In a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall ("surface hors-tout").

"Building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls ("aire de bâtiment").

"Grade" means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances.

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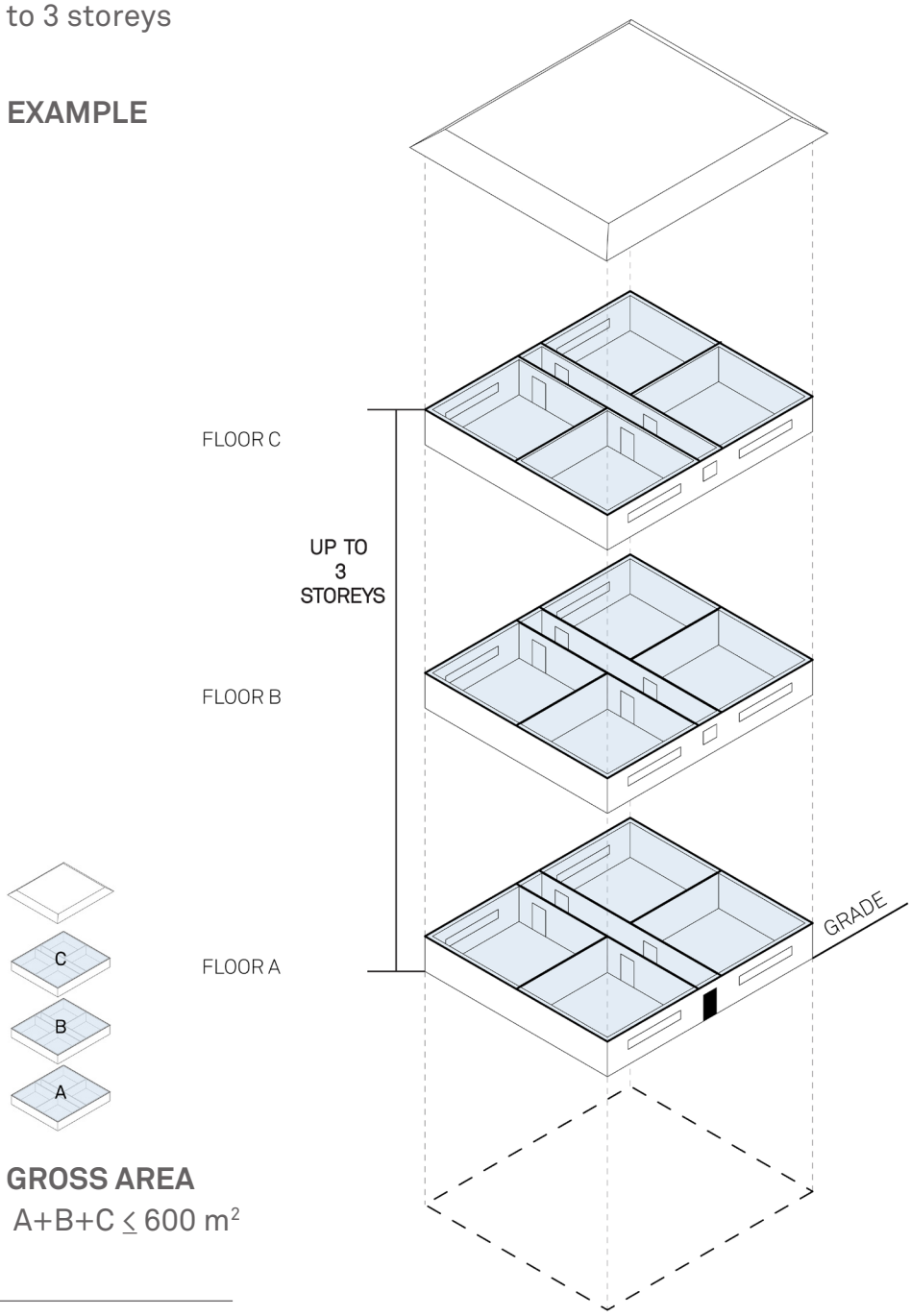
Diagram 2 - *Architects Act*, Exception Section 11(3)a

- Residential, Business, Personal Services, Mercantile, Agricultural, or Industrial Occupancies
- Up to 600 m^2 *gross area*
- Up to 3 storeys

EXAMPLE



GROSS AREA

A+B+C $\leq$ 600 m^2

Definitions sourced from the *Architects Act* R.S.O. 1990, c. A.26:

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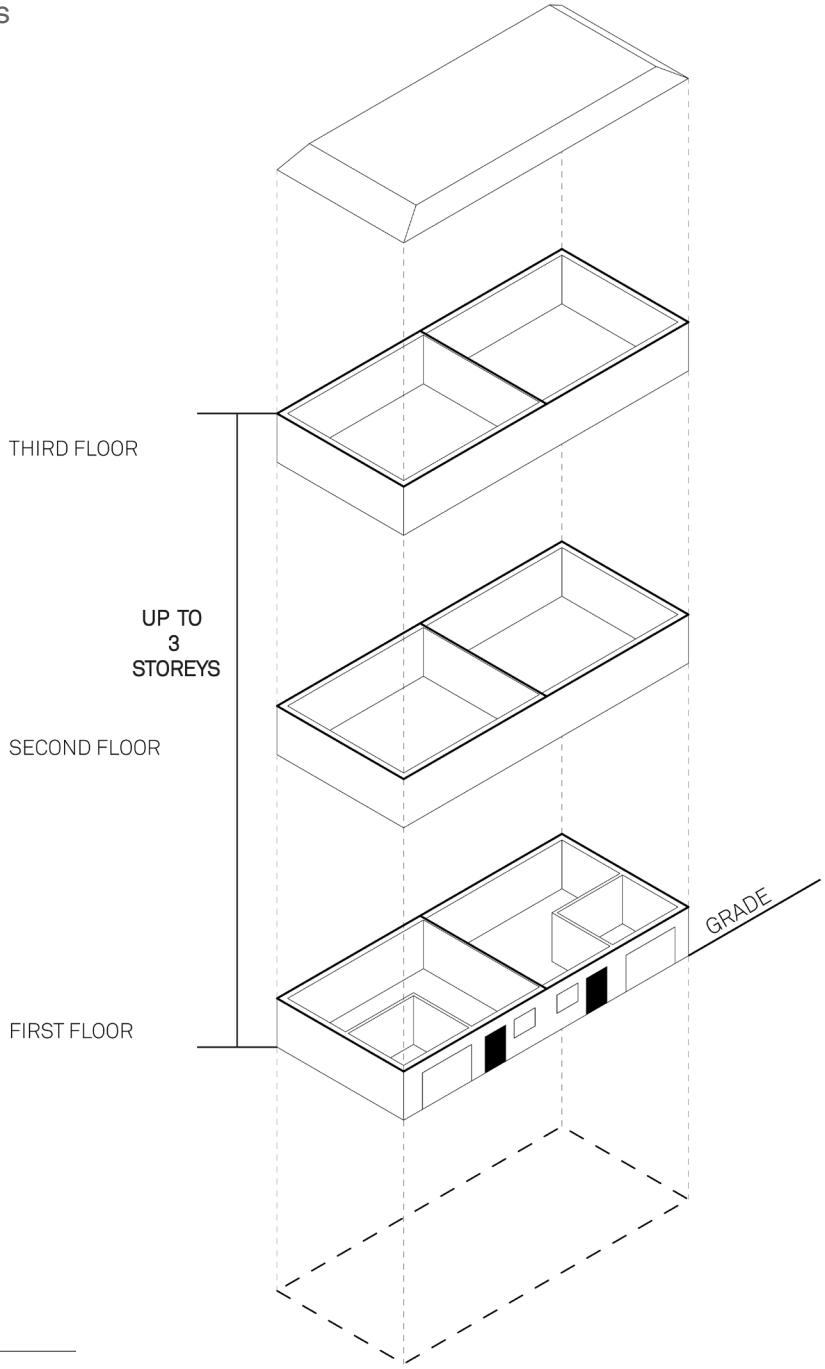
Diagram 3 - *Architects Act*, Exception Section 11(3)b(i)

- One *dwelling unit*, constructed directly on *grade* or two attached *dwelling units* constructed directly on *grade*
- Up to 3 storeys

EXAMPLE



Definitions sourced from the *Architects Act* R.S.O. 1990, c. A.26:

"Dwelling unit" means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities.

"Grade" means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances.

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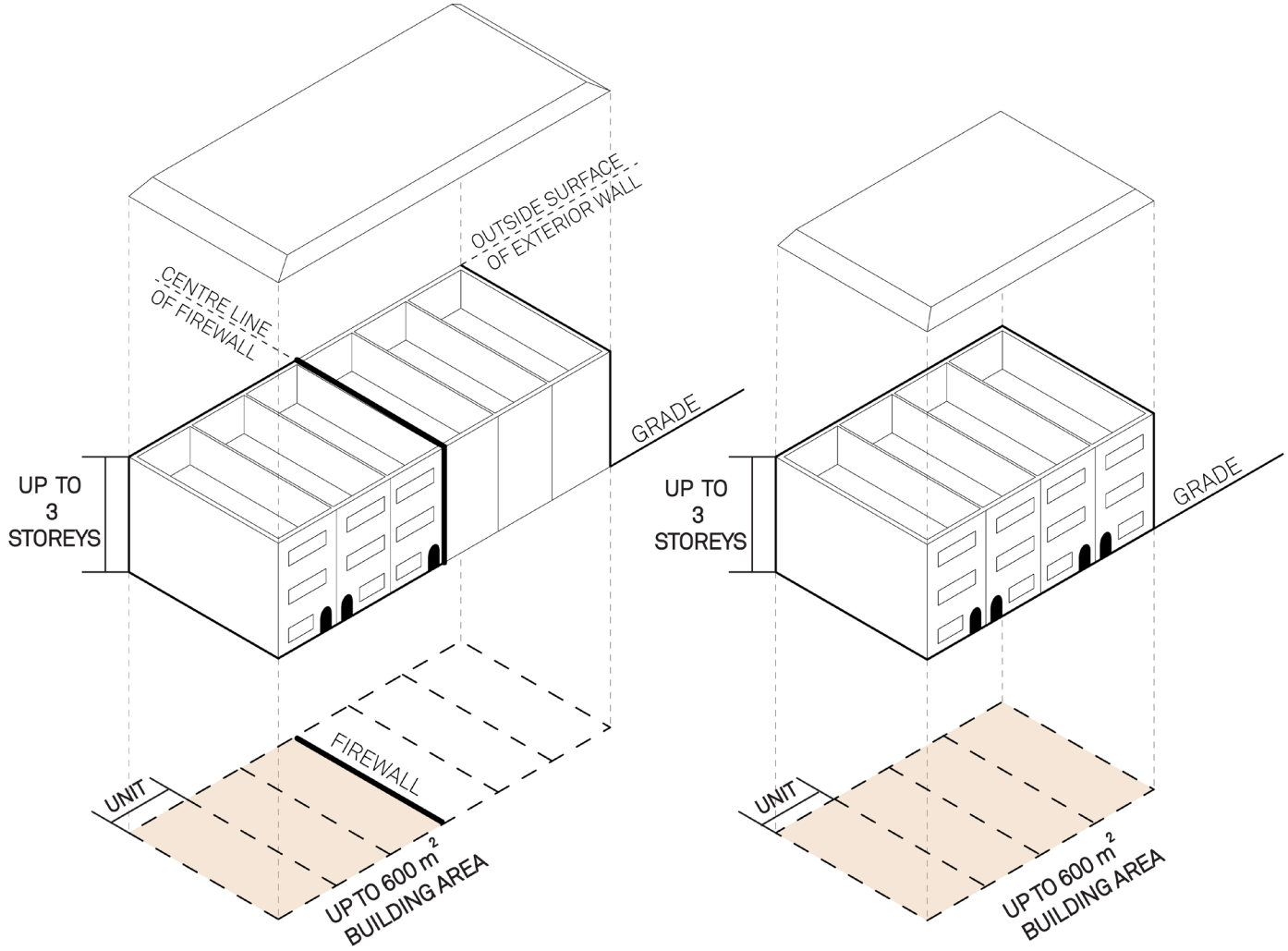
Diagram 4 - *Architects Act*, Exception Section 11(3)b(ii)

- Three or more attached *dwelling units* each of which is constructed directly on *grade,* with no *dwelling unit* constructed above another *dwelling unit*
- Up to 600 m^2 *building area*
- Up to 3 storeys

EXAMPLES



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"Dwelling unit" means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities.

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Licensed Technologist: Scope of Practice

Project Scope	Area and Height	Source
One or More of: Residential, Business, Personal Services, Mercantile, Industrial, or a restaurant designed to accommodate not more than 100 persons consuming food or drink	Every building that does not exceed 600m^2 in *gross area* and is not more than three storeys as constructed, enlarged or altered.	Regulation 27, Section 32.1(1)
Dwelling Units	Every building used or intended for residential occupancy, contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than four storeys.	Regulation 27 Section 32.1(1)
	Every building used or intended for residential occupancy, contains three or more attached dwelling units, and, as constructed, enlarged, or altered, is not more than four storeys and 600 square metres in building area.	Regulation 27 Section 32.1(1)
Interior Space	Every building within parameters set out in the *Architects Act*	Regulation 27 Section 32.1(3)
Alterations within a Dwelling	Every building within parameters set out in the *Architects Act*	Regulation 27 Section 32.1(3)
Buildings Used in Extraction & Processing of Ore From a Mine	Every building	Regulation 27, Section 32.1 (3)

Definitions sourced from the *Architects Act* R.S.O. 1990, c. A.26:

"Gross area" means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls. In a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall ("surface hors-tout").

"Building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls ("aire de bâtiment").

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