

CITY OF MISSISSAUGA ENFORCEMENT UNIT

QUESTION AND ANSWER GUIDE

On

**ACCESSORY DWELLING UNITS - BASEMENT APARTMENTS &
LODGING HOUSES**

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PLEASE NOTE:

This information guide has been prepared to assist residents in understanding the By-laws in place that address Accessory Dwelling Units (ADU's - also known as Basement Apartments) and Lodging Houses. The information provided is in a Question & Answer format covering By-law definitions and restrictions, legislative authorities, powers of entry, evidence required for issuing charges and commonly asked questions.

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COMMONLY ASKED QUESTIONS AND ANSWERS

- 1. What By-law restricts accessory dwelling units?** *City of Mississauga Zoning By-law 0225-2007.*
- 2. How many dwelling units are permitted on a residential lot?** *City of Mississauga Zoning By-law 0225-2007, Article 4.1.1.1, permits a **maximum of one (1) dwelling unit** on lots zoned Residential (detached, semi-detached or row dwellings).*
- 3. What is a dwelling unit?** *Under City of Mississauga Zoning By-law 0225-2007, a “Dwelling Unit” is defined as **“one (1) or more habitable rooms designed, occupied or intended to be occupied as living quarters as a self contained unit and shall, as a minimum contain sanitary facilities, accommodation for sleeping and one (1) kitchen, but not more than one (1) kitchen.”***
- 4. What is a habitable room?** *Under City of Mississauga Zoning By-law 0225-2007, a “Habitable Room” is defined as **“a room commonly used for living purposes, including a bedroom and kitchen, but shall not include any space in a dwelling used as a lobby, hallway, closet, or bathroom, or any room having a floor area of less than 4.5 m².”***
- 5. What evidence is required for an Enforcement Officer to issue a charge?** *The officer must be able to provide evidence that there is **more than** one (1) dwelling unit. This requires evidence showing **each** dwelling unit contains a kitchen, bathroom and accommodation for sleeping.*
- 6. Does an Enforcement Officer have to give a homeowner any type of notice or warning before they can inspect inside their home?** *Yes, under Section 49.3 of the Planning Act, an officer is not permitted to **enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.***

7. If homeowners/occupants refuse to allow Enforcement Officers entry into their dwelling unit, what is the next step and how often does that take place?

Response: *Consent to Enter to inspect Residential premises is required from the homeowner/occupant. This is a requirement under both the Municipal and Planning Acts, the legislative authority under which the Zoning and Residential Licensing By-laws are enacted. The Officers must give the owner/occupant the legislated caution (verbal and written) before entry to comply with the Legislative requirements and Case Law. If the occupant refuses entry, staff's hands are tied as entry would only be permitted under the Authority of Search Warrant. These are rarely pursued since the evidence required to satisfy the issuance of the Search Warrant is not usually available without having gained entry into the premises. The file is kept open and notes are added to our system so that should a property go up for sale and a lawyer is performing a search of the property, it will be flagged as having a possible by-law infraction.*

8. What is the enforcement process for addressing “Accessory Dwelling Units- (ADU’s) - Basement Apartments”? *The process for addressing the units is to first attempt to gain entry to observe and determine that an accessory dwelling unit does exist. Consent to Enter to inspect from the homeowner/occupant is required prior to any inspection taking place. If consent to enter is granted and it is determined that there is an ADU, the homeowner is advised of the following options. Provide proof that the unit existed prior to November 16, 1995 or remove the second kitchen and return the premises to a single dwelling unit. If the homeowner elects to legalize the unit and can provide the required information, Compliance & Licensing will grant the request to grandfather and forward the information to Fire Prevention, Zoning and Building for their follow-up. This is to ensure the ADU meets their applicable legislative requirements in regards to life safety standards. If the homeowner does not comply with the options noted above and there is sufficient evidence to proceed with a charge under the By-law, then Court action is taken.*

9. Why don't the Enforcement officers simply respond to basement apartment ads and tour the premises as prospective tenants and then use the evidence they observe to issue a charge? *The officers are legislatively required to obtain consent from an owner/occupant of the property in accordance with the applicable provisions. Any evidence obtained without consent in accordance with the legislative requirements is not admissible in Court.*

10. I've been told by people coming out of the house that they are renting the basement apartment, I also have a rental ad from the paper and photographs of them moving into the basement. Can't enforcement use this information to issue a charge? *This information on its own is not sufficient evidence to prove that there is a second accessory dwelling unit. There must be evidence which clearly shows there are 2 (two) dwelling units, as defined in the By-law, on the property.*

11. Why are some Accessory Dwelling Units (ADU's) permitted? *The City of Mississauga Zoning By-law does not permit ADU's. However, in accordance with Provincial Legislation, if a homeowner is able to provide proof that the ADU existed prior to November 16, 1995, and meets the applicable legislative requirements in regards to life safety issues from the Fire Prevention, Building and Zoning Departments, then it would be permitted. The City does take enforcement measures against illegal ADU's when the required evidence can be obtained. This evidence is difficult to obtain whereas Provincial Legislation permits enforcement staff to inspect private property at any reasonable time of day, it does not afford the officer the ability to inspect a dwelling unit without the owner's/occupant's permission.*

12. Does the City of Mississauga Licence Lodging Houses? *Yes, the City of Mississauga Residential Rental Accommodation Licensing By-law 172-10 requires a person owning or operating a lodging house to obtain a licence.*

13. What is a Lodging House? *Under City of Mississauga Residential Rental Accommodation By-law 172-10, a “Lodging House” is defined as “a dwelling unit containing more than three (3) Lodging Units each designed or intended for the lodging of Persons in return for Remuneration. A Lodging House shall only be permitted in a detached dwelling and no Lodging Unit shall be contained in a basement. A maximum of four (4) Lodging Units shall be permitted within a Lodging House and each Lodging Unit shall be occupied by a maximum of one (1) Person. A maximum of 40% of the gross floor area residential of a Lodging House shall contain Lodging Units.”*

14. What is a Lodging Unit? *Under City of Mississauga Residential Rental Accommodation By-law 172-10, a Lodging Unit is defined as “a room designed or intended to contain accommodation for sleeping. A Lodging Unit may contain sanitary facilities but shall not contain equipment or appliances for storing, cooking, or heating food, and shall not contain equipment or appliances for washing clothes or washing dishes.”*

15. What does remuneration mean? *Under City of Mississauga Residential Rental Accommodation By-law 172-10, remuneration is defined as “includes any one or more of the following: **the payment of rent, fees, other valuable consideration or the provision of services.**”*

16. What evidence is required for an Enforcement Officer to issue a charge? *The officer must be able to provide evidence that there are 4 (four) lodging units and that remuneration is being provided.*

17. Does an Enforcement Officer have to give a homeowner any type of notice or warning before they can inspect inside their home? *Yes, under Section 437. (a) of the Municipal Act, an officer is not permitted to enter or remain in any room or place actually being used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.*

18. If homeowners/occupants refuse to allow Enforcement Officers entry into their dwelling unit to investigate a suspected lodging house, what is the next step and how often does that take place? *See Answer to Question #7.*

19. Our Neighbour is renting out rooms to 3 (three) unrelated people, can they do that? *There is no violation as long as there is only one dwelling unit on the premises.*

20. How can residents assist Enforcement Staff in enforcing the By-laws?

- *Familiarize yourself with what constitutes a violation under the applicable by-laws.*
- *When filing a complaint, forward all applicable information noted below which will assist enforcement staff in their investigation.*
- *Brief explanation as to why you believe there is a by-law contravention.*
- *Rental Ad (email or newspaper).*
- *A complete detailed description of your observations if you have been in the premises yourself recently and can confirm there is a violation of the by-law in accordance with the provisions noted previously in this information guide.*
- *Being willing to testify in Court as to your observations if required.*