

City of Mississauga
Corporate Report



<p>Date: January 6, 2025</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files:</p>
<p>From: Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: February 5, 2025</p>

Subject

Path to Safer and More Affordable Housing Options – An Additional Residential Units Licensing By-law or an Improved Registration By-law in Mississauga

Recommendation

1. That the report dated August 5, 2024, from the Commissioner of Planning and Building regarding Path to Safer and More Affordable Housing Options – An Additional Residential Units Licensing By-law or an improved Registration By-law in Mississauga be received.
2. That an Additional Residential Units (“ARU”) Licensing By-law or an improved Registration By-law be enacted in 2025 to replace or amend the existing Second Units Registration By-law 0114-2016.
3. That the Second Units Registration By-law 0114-2016 be repealed upon the passage of the new ARU Licensing By-law or amended where improvements are instead pursued.
4. That Strategic Communications and Initiatives staff launch an ARU marketing program to building awareness and encourage the legalization of illegal ARUs.
5. That Council request that the Region of Peel review their second unit financial incentives program to better support legal basement apartment conversions.
6. That staff review the Short-Term Rental Accommodation Licensing By-law 0289-2020, as amended, and the Residential Rental Accommodation Licensing By-law 0172-2010, as amended, and report back to Council.
7. That Planning and Building staff inform other levels of government on the need for significantly reduced hearing wait times at the Landlord and Tenant Board (LTB) to reduce pressure on the need for municipal intervention via enforcement and bylaws that add costs and red tape.

Executive Summary

- Additional residential units (ARUs) which include second units (commonly referred to as ‘basement apartments’) and garden suites provide affordable housing options that attract a mix of residents including families, young professionals, and retirees. They also support homeowners by providing supplemental income and an opportunity to age in their community.
- ARUs can be built more quickly and cost effectively than other housing types, making them an important component of the City’s Growing Mississauga: An Action Plan for New Housing, Making Room for the Middle: A Housing Strategy for Mississauga report and supported by other housing initiatives such as the pre-approved garden suite designs and the Community Improvement Plan (CIP).
- Mississauga is committed to fostering vibrant and inclusive communities with yet another housing initiative, which in this particular case addresses some of the unintended consequences of the national housing supply and affordability crisis.
- By repealing the Second Units Registration By-law 0114-2016 in favour of an ARU Licencing By-law or by amending the existing Registration By-law in a way that prioritizes tenant health and safety in ARUs, we can ensure these homes seamlessly integrate into our neighborhoods while attracting broad support from residents. Together, we’re not only increasing housing options but also promoting safe, healthy living environments for tenants in our city.
- The recommended ARU Licencing By-law or an improved Registration By-law provides homeowners with a viable path to legalization, one that doesn’t add costs and onerous regulations. The approach focuses on education and accountability to prevent issues from happening in the first place. This approach mitigates tenant displacement and creates conditions that empower landlords to provide more housing opportunities.
- More specifically, the proposed ARU Licencing By-law or an improved Registration By-law would:
 - Leverage education through the licence renewal process as a proactive approach to minimize complaints and reliance on enforcement in alignment with Action 34 in the Making Room for the Middle: A Housing Strategy for Mississauga report. This will ensure that new and/or existing property owners and tenants know their rights and obligations so that units remain compliant overtime.
 - Enhance tenant engagement through a customer service focused program.
 - Address noise, property standards and parking complaints by communicating

expectations for the property owner through the licence/registration renewal process.

- Provide a viable pathway for property owners to maintain their units and invest in necessary capital improvements.
- The proposed ARU Licensing By-law or an improved Registration By-law would be supported by a marketing program.
- Staff also propose to review existing by-laws (Short Term Accommodation Licensing, and Residential Rental Licensing [lodging homes]) to preserve the affordable rental housing stock in Mississauga and to support broader ARU housing initiatives.

Background

Second units have been permitted in the City of Mississauga since 2013. There was also a period from 1994-1996 where 400 second units were legally built. The City currently has over 3,500 registered legal second units and an estimated 5000-8000 unregistered second units.

Unregistered, illegal basement apartments can pose health and safety risks to tenants because they are not verified to meet the Ontario Building Code (OBC), Ontario Fire Code (OFC) and other applicable law. Legal second units can also pose health and safety issues depending on how they are managed over time in terms of operations and maintenance.

In a letter to General Committee on March 6, 2024 (item 15) a Region of Peel paramedic described their experience of responding to emergency calls in second units where tenants were living in unsafe conditions. General Committee was frustrated with the City's seemingly limited ability to effectively respond to reports of unsafe rental units. As a result, these units often remain operational for long periods of time in what was described as, "accidents waiting to happen". In response, the Committee directed staff to prepare a report on potential actions the City may take to:

- Improve the City's ability to effectively respond to second unit related complaints to ensure that they are legalized and safe for tenants.

The *Municipal Act, 2001* establishes the regulatory framework that the City leverages as a tool for protecting the health and safety of tenants.

Previous Regulatory Framework for Secondary Units

In 2013, Council approved a Zoning by-law amendment which permitted second units as-of-right throughout Mississauga. Shortly thereafter, a Second Unit Licensing By-law ([0204-2013](#)) was enacted in 2014 to create a mechanism for compliance with applicable laws (Zoning By-law, Ontario Building Code, and Ontario Fire Code) and additional requirements to protect tenant health and safety.

While the Second Unit Licensing By-law was in effect from January 2014 to June 2015 – only 67 second units were constructed with building permits and licensed during this time. Property owners may have been discouraged from building or legalizing their second units because of additional licensing costs and regulations such as the requirement for annual inspections.

Costs associated with building/renovating units to meet the OBC may have also been a barrier although OBC compliance would still have been required regardless of the Second Unit Licensing By-law.

Consequently, in June 2015, Resolution 0149-2015 asked staff to review its second unit licensing process and consider other approaches such as registration (see Appendix 1 for a more detailed overview).

Current Regulatory Framework for Secondary Units

The City of Mississauga passed the Second Units Registration By-law in 2016 which requires the one-time registration of all second units in the City. The Second Units Registration By-law generally protects the health and safety of Mississauga residents by making landlords more accountable. For example, the Second Units Registration By-law provides the City with the authority to revoke a registration and/or issue penalties for non-compliance with the Second Units Registration By-law (see Appendix 2 for the registration process). All legalized units through the current bylaw and previous licence program are tracked via a public registry which allows prospective tenants to identify which units are legal.

Additional Residential Units (ARUs)

In accordance with the current regulations, only second units are captured by the Second Unit Registration By-law while third units or detached garden suites, also known as ARUs, only require a building permit. All new ARUs are currently captured through the building permit process and added to the public registry by staff. However, since ARUs are not captured in the current bylaw, the City cannot revoke the registration for non OBC or OFC matters such as property standard issues.

During the *Increasing Housing Choices in Neighbourhoods* study, Council requested that ARUs be subject to similar operational regulations as second units. Second units are considered ARUs and therefore they will be captured in the proposed ARU Licensing By-law or an improved Registration By-law.

Environmental Scan

Staff undertook an environmental scan regarding how other municipalities are addressing tenant health and safety. The Cities of Windsor, Hamilton, London all have licencing programs where there are annual obligations like inspections and fees. The Cities of Vaughan, Oshawa, and Markham have one-time registration programs. The City of Brampton is currently piloting a licensing program in select Wards with a focus on education, incentives and pro-active enforcement to legalize a significant number of ARUs.

Comments

Mississauga is currently experiencing a housing supply and affordability crisis. As the cost of purchasing and owning a home becomes a challenge, many homeowners are turning towards converting their homes to create a second or third unit as a new source of income. This is creating both an influx of new landlords and more affordable housing options for renters.

The City's shift from licensing to registration has helped significantly increased the supply of legal second units, presumably by creating a viable path to legalization. As of April 2, 2024, an average of about 400 second units have been registered annually since 2018, with over 700 registered in 2024 – an improvement over the 67 units that were registered in 2016 under the licencing regulation. The success of this shift may be attributed to the reduced regulations and costs.

Other factors like website improvements, preapproved garden suite designs and as-of-right zoning have helped the average number of registered units (ARUs) increase year-over-year. However, the majority of new ARU supply are market driven.

The City has had less success with responding to second unit related complaints and reports of illegal units from residents and first responders who are concerned about the health and safety of tenants in specific second units. The City's limited ability to address these concerns suggests that the current Second Unit Registration By-law needs to be re-examined, given that its purpose is to protect tenant health and safety. There are also broader considerations like the overall lack of affordable housing supply, economic conditions and interrelated legislation and by-laws which may be contributing to conditions that impact tenant health and safety.

Staff reviewed the following challenges to identify improvements that may help provide a feasible path to legalization and strengthen the City's ability to respond to reports of illegal units and associated complaints.

A. Challenges and Second Unit Registration Bylaw Improvement Opportunities:

1. **Limited awareness about the registration requirement:** Homeowners may not be aware that they need to get building permits/register their basement apartment with the City. This can potentially create liability issues for the homeowner, possible fines from illegal construction without a building permit and for operating an illegal basement apartment, potentially unexpected renovations costs, compensation to affected tenant(s) and/or loss of basement apartment revenue.

Furthermore, homes are sometimes advertised for sale with a basement apartment so prospective buyers may assume that the unit is legal. Tenants may also be unaware of the City's public registry and/or the risks associated with renting an illegal unit. Therefore there is a need to raise awareness about the City's legal unit registry, regulatory requirements, and benefits of legal units to both landlords and tenants.

2. **There are limitations with this City's authority to enforce the Second Unit Registration By-law:** Except where there is an immediate threat to life safety, the process of gaining access to legal or illegal second units without the consent of the occupant (tenant), can be drawn-out and costly (court orders/warrants). This limits the City's ability to reduce the illegal supply and effectively respond to complaints in a timely and cost effective manner.

Tenant cooperation is a challenge because tenants are often not aware of the risks to their health and safety and/or they are afraid that they will be displaced or evicted.

The financial penalties for property owners found to be renting an illegal unit can be fined up to \$25,000 for individuals or \$50,000 for corporations (according to the current regulations), and can also include a prohibition to renting the unit. Encouraging tenant cooperation will strengthen the City's ability to respond to complaints.

Broad and proactive enforcement can act as a deterrent and increase the amount of converted illegal units, but it also comes with considerable drawbacks:

- I. It will require additional resources – likely to be partially offset through annual fees and fines which is counter to the lesson's learned from the 2016 licencing program. For reference, the City of Brampton's focus on enforcement will require 38 new bylaw enforcement officers and two support staff at a cost of \$3.6 million annually.
 - II. Enforcement does not actually create new supply when illegal units are converted into legal units so money may be better spent on preventative measures and increasing housing supply.
 - III. Enforcement could have unintended consequences such as reducing the City's existing housing supply and displacing tenants if property owners choose not to legalize.
 - IV. Does not improve the City's ability to promptly respond to complaints due to entry right limitations.
3. **Landlords and tenants may not know their obligations and responsibilities.** The City's current Second Unit Registration By-law only verifies compliance at the time of registration and therefore compliance can only be confirmed at that time. Furthermore, the Second Unit Registration By-law does not help manage how a unit is operated or maintained so overtime or a change of ownership may increase the potential for tenant health and safety issues in legal second units.

There are currently no safeguards in place to ensure that landlords know their responsibilities. This gap in awareness can directly create unsafe conditions for tenants. For example, overcrowding, creating additional rooms that are not to code, minimum temperature requirements and in some cases illegal evictions and rent increases could negatively impact a tenant's health and wellbeing. The lack of awareness or clarity around

who is responsible for property maintenance can create property standard issues which increase complaints to the City and build negative sentiment around ARUs.

As noted above, enforcement and annual inspections are not recommended so other tools like declaration forms could be utilized.

This is a pressing issue because more homeowners are becoming landlords as a response to the affordability crisis. The City is also experiencing an influx of purpose-built second units/ARUs where the purchaser would have not been involved in any part of the registration process. These conditions are contributing to a significant increase in the number of new landlords across the City. However, there is currently no active communications or mechanism in the City's current Second Unit Registration By-law that supports landlord education for legally operating and maintaining an ARU. There also isn't a mechanism to help tenants identify potential health and safety issues in legal units

- 4. Financial burden of bringing illegal units into conformance:** The cost to convert an illegal unit to a legal unit can vary widely. The City does not charge any registration fees. Building permit fees also qualify for a rebate through the new Community Improvement Plan which is part of a larger effort to support the increased supply of affordable housing. However, renovation costs (whether actual or perceived) can be a barrier. There are currently no tools like a self assessment tool or active communications regarding the programs that are available to property owners to address these barriers. For example, the [Canada Secondary Suite Loan Program](#) which will provide low-interest financing to homeowners who build second units.

Residents also previously had access to the Region of Peel's "My Home Second Unit Renovation Program" but this program has been put on-hold. This program was available to property owners who want to upgrade and legalize an existing second unit. Homeowners could apply for a maximum \$20,000 forgivable loan with the potential for an additional \$10,000 if they agree to rent to a tenant referred by Peel Region – the program has various eligibility criteria that are applicable to the landlord and tenant.

The City of Mississauga recently approved a Community Improvement Plan (CIP) for affordable housing. Applicants can apply for incentives that waive building permit fees. ARUs are also already exempt from City's development charges. However, incentives from other levels of government are needed to help offset the capital cost of conversions for those who need it the most. This funding would support the creation of affordable and safe housing for tenants. Broad and significant capital incentives are not recommended due to their potential to reduce affordability by increasing house values and since they may increase wealth inequity.

- 5. Alignment with Complimentary Bylaws:** Other City bylaws have the potential to create barriers or opportunities for increasing the supply of second units.

Lodging homes (rooming houses) may share similar safety issues and barriers as second units. The City's regulation of lodging homes under the Residential Rental Accommodation Licensing By-law 0172-2010, as amended, should be also be examined to address any barriers that could be limiting the legal and safe supply of affordable housing. There may also be opportunities to align process improvements and enforcement efforts.

The City's Short Term Rental Accommodation Licensing Bylaw 0289-2020, as amended (the "STA By-law") can potentially impact the supply and affordability of second units. For example, the licensing requirements and/or enforcement limitations may be creating similar conditions that contributed to the rise of illegal second units. Making changes to the Second Unit Registration By-law without signaling that changes to the STA By-law are forthcoming could encourage owners of illegal second units to provide STAs instead. Conversely, restricting STAs could impact economic activity and reduce the supply of tourism accommodations, transitional and emergency housing. These outcomes can also put pressure on the supply and affordability of long-term rentals and impact communities that are seeing a rise in illegal STAs. A comprehensive review of the STA By-law could help manage some of these concerns.

In other cases, some property owners are providing STAs or are no longer providing legal second units because some long-term rental tenants exploit the protections afforded to them by the Residential Tenancies Act, 2006 in order to avoid paying for rent. Therefore the City may want to advocate for improvements to the Landlord Tenant Board process to ensure that residents have access to hearings in a timely manner.

B. Recommended Approach to Tackling Illegal Second Units

As noted, **the City's goal is to increase the supply of legal basement apartments and strengthen the City's ability to respond to reports of illegal units.** Most of the aforementioned barriers to legalization are not exclusive to the City's building permitting process and Second Units Registration By-law. However, a unique limitation of the Second Units Registration By-law is that it is reactive in its approach for addressing health and safety concerns that could arise from how the unit is operated by the landlord. There is no recurrent or targeted mechanism to educate landlords about illegal practices. Issues like property standards can be addressed through other bylaws but they are best addressed before the issues happen through education and deterrence. Proactive measures could therefore be the preferred option.

Given the enforcement challenges and drawbacks, the proposed approach is to employ the following preventative measures to reduce issues before they happen and to reduce pressure on the need for enforcement.

Furthermore, the current registration process only confirms that the unit meets the compliance requirements at the time of registration. If the landlord changes, gaps in awareness and education could contribute to situations that create overcrowding through illegal renovations. Once this occurs, enforcement actions could take significant time, provided there isn't a direct threat to life safety.

Given the enforcement challenges and drawbacks, challenges with the City's entry rights into dwelling units can be addressed through proactive measures such as:

- V. Providing incentives to tenants as a way to promote engagement with the City on the risks of living in an illegal unit and the protections available to them for reporting/facilitating access for inspections.
- VI. Educating tenants on the benefits of renting in a legal unit as a way to create market demand for legal units.
- VII. Landlord education so that they know the benefits/risks (penalties of \$25k for individuals \$50k for corporations as per the current regulations) and the risk of losing the ability to legally rent the unit can be powerful deterrents), their roles and responsibilities as they relate to tenant safety and property standards, and by making landlords aware of the legalization process and the tools and resources that are available to them.

The key to effective deterrence is the communication of these benefits and risks while also providing a reasonable path to legalization. Education/awareness need to be sustained overtime to reflect property owner and tenant turnover. Where there is blatant non-compliance, expected amendments to the Fire Code and Fire Protection and Prevention Act may provide more opportunities for enforcement (such as fines) for illegally constructed, non-complaint ARUs.

Furthermore, while limited incentives are a barrier to any type of regulatory framework, the current registration process limits the City's ability to ensure that units remain available for their intended purpose after receiving incentives.

Staff believe that a Licensing By-law or an improved Registration By-law will likely have a positive impact on addressing the aforementioned limitations when compared to the existing registration program. The main advantage of the proposed changes is that they provide a proactive approach to prevent issues through education (such as online declarations) and it widens the scope of accountability for landlords.

Staff are targeting 2025 for by-law enactment should Council approve staff's recommendation to repeal the existing Second Units Registration By-law in favour for an Additional Residential Unit Licensing By-law or amend the existing Registration By-law.

Recommendation #3 – ARU Licencing or an improved Registration By-law

A proposed Licence By-law or an improved Registration By-law would be designed to achieve the following objectives with the overall goal of increasing the supply of safe and affordable long-term rental housing:

Objective 1: Continuity with the previous registration program. The intent is to build on the strengths of the existing Registration By-law while also addressing the above noted challenges. The proposed Licensing By-law or improved Registration By-law would not add any onerous requirements beyond what is required through the existing registration process.

Objective 2: Integrate property owner education and awareness as part of the renewal process. Property owners and their legislated responsibilities can change overtime, so it is important that there is a recurring mechanism for communicating important information. Constant education and awareness are proactive approaches to reducing the amount and severity of complaints or health and safety issues.

The City should implement a renewal component to the current process in order operationalize the above noted improvement opportunities. This provides an ongoing mechanism to educate both tenants and landlords and to verify and facilitate entry for compliance without adding additional costs or onerous regulations.

Proposed Licence By-law or improved Registration By-law Details:

- Applies city-wide
- The licence/registration will need to be renewed every three years or when ownership changes
- There will be no fees for the licence/registration
- The only renewal requirement will be an online declaration form
- Enforcement/inspections will be undertaken on an as-needed basis

Other supporting actions

There are other supporting actions and considerations that Council can endorse in order to support the implementation and outcomes of this bylaw improvement. These are largely focused on addressing barriers that are outside the scope of the licencing bylaw

Recommendation #4 – Marketing and Communications Campaign

A marketing and communications campaign will be needed to support the overall roll-out of the Licencing By-law or an improved Registration By-law. The campaign strategy would:

- Bring awareness to the new requirements
- Communicate the benefits to both property owners and tenants
- Address common misconceptions and barriers like impact to property taxes and income taxes
- Communicate existing incentives such as the CIP and other programs like the Canada Secondary Suite Loan Program. This may also include non-financial incentives like process improvements and tools that make providing and ARU easier. For example, a self-assessment checklist to make it easier for property owners estimate renovation costs

- Promote the City's legal ARU unit database and encourage residents to report illegal units to support targeted communications from the City.
- Incentivizing tenants to engage with the City via give-aways like smoke detectors and grocery gift cards

Recommendation #5 – Incentives

Request that the Region of Peel review their second unit financial incentives program to better support legal basement apartment conversions in Mississauga. The focus should continue to be on those who need it the most while ensuring that more Mississauga residents qualify.

Recommendation #6 – Review of Complementary By-laws

Direct staff to undertake a review/inform the following by-laws as part of a wider strategy to support the City's goal of increasing the supply of long-term rental housing.

- a. STA Bylaw
 - i. Staff have completed the background research that is needed to inform any future changes. The research includes an environmental scan, best practices review, and a quantitative analysis on the impact of STAs in Mississauga. This research will be used to inform a recommendation report to GC outlining the recommended changes to the STA By-law.
- b. Residential Rental Accommodation Licensing By-law 0172-2010 (Lodging Homes)
 - i. Staff are finalizing a bylaw review and policy review which will be used to inform a Recommendation report to GC in 2025. The suggested changes are intended to reduce barriers and increase the safe supply of lodging homes.

Recommendation #7 - Inform Other Levels of Government

That Planning and Building staff to inform other levels of government on the need for significantly reduced hearing wait times for both landlords and tenants at the Landlord and Tenant Board (LTB). These changes are needed to reduce the pressure on municipalities who need to otherwise increase red tape, costs and enforcement.

Financial Impact

There are no financial implications with this report. City staff will update Council on the financial impacts, should there be any, through the creation of the ARU Licencing Bylaw or through amendments to the existing Second Unit Registration By-law.

Conclusion

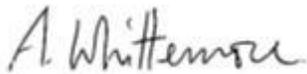
There are enforcement limitations and other challenges with the City's Second Units Registration By-law.

The reoccurring obligation of a Licencing By-law or if implemented through an improved Registration By-law, provides many advantages without creating additional barriers for property owners. Staff therefore recommend the implementation of an ARU Licensing By-law or an improved Registration By-law. An ARU Licencing or Registration communication and marketing program will further support the by-law's implementation through education, communications and marketing and help address some of the enforcement limitations. Second units and ARUs contribute to meeting the City's housing supply commitments and affordable housing needs.

Attachments

Appendix 1: Regulatory History

Appendix 2: Secondary Unit Registration Process



Choose an Approver

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