



Town of Tewksbury

OFFICE OF BUILDING COMMISSIONER

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WHAT TO DO WHEN THERE IS AN ILLEGAL DWELLING UNIT

A “dwelling unit” is defined as one or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same and including a room or rooms for living, sleeping and eating.

An “illegal dwelling unit” is when there is a dwelling unit in a single family home WITHOUT the benefit of a building permit and having no Restriction Agreement recorded at the Northern Middlesex Registry of Deeds.

These “illegal dwelling units” pose life safety issues. These units were possibly done without licensed tradesman and have had no inspections from certified Town inspectors and the Tewksbury Fire Department. Therefore, rooms used as bedrooms may be without proper egress in an event of a fire or emergency. There may be missing smoke detectors. The plumbing, gas and/or electric may have been installed improperly creating a situation where an electrical fire or gas leak could occur or in some cases sewer gases may be allowed to enter the home. These units also violate the Tewksbury Zoning Bylaws.

If there is an illegal dwelling unit, there are two options. Remove it and return the dwelling back to a single family home OR apply for a family suite application.

TO REMOVE AN ILLEGAL DWELLING UNIT:

1. Apply for and receive a building permit to completely remove the kitchen **including all cabinets**. This must include a detailed floor plan showing the area before and after the kitchen removal. All rooms must be labeled with the use.
2. A plumbing permit must be pulled by a licensed plumbing to remove the kitchen sink. The pipe must be cut back into the wall and capped.
3. If the stove/oven is electric and electrical permit must be pulled by a licensed electrician and the wire must be removed at the electrical box. If the stove/oven is gas a licensed gasfitter and/or plumber must pull a gas permit to cut and cap the gas line into the wall.
4. **If a bedroom exists, it must either be removed or must have emergency egress as defined by MGL. A room is considered a bedroom if it has private access and a closet.**
5. A plumbing, (gas or electric) and final building inspections will be conducted and then the Fire Department will be notified.
6. The property will be returned to a single family home.

TO MAKE THE ILLEGAL DWELLING UNIT A LEGAL FAMILY SUITE Note: This option is only allowed if the illegal dwelling unit meets **ALL** the requirements of the Tewksbury Zoning Bylaws, Section 3400, Family Suite. This policy is also to ensure compliance with 780 CMR, the Massachusetts State Building Code, Plumbing Code and Electrical Code.

1. Apply for a building permit for a family suite. The application must include detailed plans with the following information:
 - a. Complete floor plans of the entire house showing how the family suite is accessed.
 - b. Plans must have dimensions and must be to **SCALE** to prove it meets the maximum square footage requirement (800 SF by right or 1,000 SF by Planning Board Special Permit). A licensed Contractor, Plan Designer or Architect must draw/review the plans for the existing structure to ensure compliance with the code.
 - c. All utility locations and storage areas must be shown on the plans.
 - d. Any bedroom(s) must have an emergency egress. This can be achieved by a door leading to the outside from the bedroom(s) OR an egress window that has an opening of 20” x 24” in either direction and NOT more than 44” off the floor.
 - e. The plans must be stamped by the Fire Department to ensure compliance with current smoke detector standards.
 - f. The family suite **CANNOT** have separate utilities (gas, electric, water and sewer).
2. The Restriction Agreement (all cases) and Subordination Agreement (if a mortgage or line of credit is in effect) must be completed and returned to the Building Department for submission to Town Counsel with a \$500 check made payable to the Town of Tewksbury, UNLESS applying for a Special Permit through the Planning Board.
3. Once the Restriction Agreement and Subordination Agreement (if required) have been approved, the plans will be reviewed and a Building Permit will be issued.
4. A licensed plumber will pull a plumbing (and gas if necessary) permit to verify that the plumbing has been installed correctly and will call for an inspection. A licensed electrician will pull an electrical permit (if necessary) to verify any additional wiring was installed correctly and will call for an inspection. Please attached memo from the Division of Professional Licensure. Please note, a smoke detector permit will be required from the Fire Department.
5. The final step will be to have a Fire and Building Department Inspection. This will now be considered a legal family suite.

SEE ATTACHED ZONING BYLAW FOR REQUIREMENTS.
IF ALL REQUIREMENTS CANNOT BE MET, THEN THIS OPTION IS
NOT PERMITTED.

3400. FAMILY SUITE

3410. Family Suite. A Family Suite is allowed as an accessory use, attached to a single family dwelling in R40, R80, FA, TR and LB zones including Cluster Developments, in accordance with the below listed (1-17) requirements. Except as noted, these requirements are not subject to relief through a variance.

- (1) A Family Suite that contains not more than 800 square feet of floor area, nor more than one (1) bedroom, may be allowed as of right, or, at the option of the Owner, may be allowed by special permit from the Planning Board.
- (2) A Family Suite may be enlarged to a maximum floor area not to exceed 1,000 feet upon the issuance of a Special Permit by the Planning Board.
- (3) Common entries and open decks shall not be included in the square footage calculation of the Family Suite.
- (4) A Family Suite shall not contain more than one (1) bedroom, unless a Special Permit for a second bedroom is issued by the Planning Board prior to occupancy. In no case shall a Family Suite have more than two (2) bedrooms.
- (5) The Family Suite shall be contiguous with the single family dwelling with direct access or connected with a common closed entry.
- (6) The Family Suite shall not have its own front door, however, it may have a side or rear exit with an open deck and egress.
- (7) Any structural addition of a Family Suite must meet all front, side and rear setbacks and lot coverage requirements for the zone unless variances are granted by the Tewksbury Zoning Board of Appeals in accordance with MGL § 40A.
- (8) No more than three (3) related persons shall occupy the Family Suite.
- (9) A minimum of one additional off-street parking space shall be provided, however, a separate driveway is not permitted.
- (10) Annual Certification by notarized affidavit shall be provided to the Building Commissioner that the owner of the property, except for bona fide temporary absence, occupies one of the two dwelling units as a primary residence. In the case of a Family Suite Unit approved by special permit, failure to provide a certified affidavit on an annual basis shall represent sufficient cause for the Planning Board to revoke any special permit approved by it. In the case of a Family Suite Unit approved as of right, failure to provide a certified affidavit on an annual basis shall represent sufficient cause for the Building Commissioner to issue a Notice of Zoning Violation to the said owner and to undertake such remedial action as the Building Commissioner may, in his discretion, determine.

- (11) The Family Suite shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). The Family Suite shall be required to hook-up to town sewer if available and, if not, as soon as town sewer is available.
- (12) Only one Family Suite may be constructed onto any dwelling.
- (13) In the case of a Family Suite Unit approved by special permit, the Planning Board may impose such conditions on the special permit as it may deem appropriate to satisfy the Town's interest in limiting the number and degree of persons who may occupy a Family Suite Unit at any one time, together with such other conditions as it may deem appropriate, if any, including but limited to, provisions calling for the termination of the Special Permit and all rights granted thereunder in the event of a foreclosure sale of the premises for which the Special Permit has been granted by a Mortgagee or any lien holder of record with priority over said Special Permit.
- (14) In the case of a Family Suite Unit as of right, Subordination Agreements (as required) and Restriction Agreements shall be completed by the applicant, submitted to the Building Commissioner, then approved and recorded at the Middlesex North Registry of Deeds by Town Counsel
- (15) Notwithstanding anything else contained herein to the contrary, nothing herein shall be construed as to require a Family Suite to be under its own roof.
- (16) Notwithstanding anything else contained in the Zoning By-Law to the contrary, if the owner, or a child of the owner, is disabled and requires assistance with Activities of Daily Living (ADL's) then the other dwelling unit may be occupied by a Personal Care Attendant (P.C.A.) who need not be related to the owner In such case, a letter from a licensed physician, verifying the disability and the need for assistance with ADL's is to be submitted to the Building Commissioner.
- (17) The Planning Board may impose such special conditions, safeguards and limitations on time and use as it deems appropriate.