



# 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 remove the kitchen. This must include a detailed floor plan showing before and after the kitchen removal.
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. A plumbing, (gas or electric) and final building inspections will be conducted and then the Fire Department will be notified.
5. 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.
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.
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 (1-11) requirements. Except as noted; these requirements are not subject to relief through a variance.

- (1) The Family Suite shall not contain more than 800 square feet of floor area by right. The maximum floor area of a Family Suite may be enlarged, however, to a maximum floor area not to exceed 1,000 square feet upon the issuance of a Special Permit by the Planning Board. Common entries and open decks shall not be included in the square footage calculation of the Family Suite.
- (2) 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.
- (3) The family suite shall be contiguous with the single family dwelling with direct access or connected with a common closed entry.
- (4) The family suite shall not have its own front door, however, may have a side or rear exit with an open deck and egress.
- (5) 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.
- (6) There are no more than three (3) related persons occupying the family suite.
- (7) A minimum of one additional off-street parking space shall be provided, however, a separate driveway is not permitted.
- (8) Annual Certification by notarized affidavit shall be provided to the Building Commissioner that the owner of the property, except for bona fide temporary absence shall occupy one of the two dwelling units.
- (9) 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.
- (10) Only one Family Suite may be constructed onto any dwelling.
- (11) Subordination Agreements (as required) and Restriction Agreements shall be completed by the applicant, submitted to the Building Commissioner, then approved and recorded at the North Middlesex Registry of Deeds by Town Counsel.
- (12) 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.
- (13) 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.