

"IN-LAW ACCOMODATIONS"

The phrase, "mother-in-law" apartments is often followed by the question - "what can I do to have one?". "Can my in-laws move in?" "What's legal?" "What's not?" To help answer those questions, we've written a brochure where we hope to enlighten people, educate them and minimize errors in judgement.

Clearly, the Zoning By-Law does not prohibit any relative from living with another relative. However, it is equally clear that any conversion to a use not permitted is not allowed.

*Using the buzz word - "mother-in-law apartment" can cloud a relatively simple issue. The operative word here is, **apartment**. **Converting a single family house to two separate housing units is prohibited unless the proper legal steps are taken to do so.***

However, a resident of any residential premises may have any relative (mother, father, mother-in-law, father-in-law, aunt, uncle, etc.) live at the same address as the owner under the following conditions:

If desired, a separate bathroom may be provided.

NOTE: *A licensed plumber must obtain the necessary permit.
A licensed electrician must obtain the necessary permit.
A building permit must be obtained.*

If desired, a separate bedroom may be provided.

A building permit is required.

NOTE: *A building permit must be obtained for any FLOOR PLAN CHANGES.
If you are considering locating a bedroom in the basement or attic area,
proper ventilation, lighting, insulation, window size and ceiling height
must meet minimum State Building Code standards.*

If desired, additional kitchen facilities may be installed.

NOTE: HOWEVER,

#1 THIS IS ONLY POSSIBLE IF THE INTERIOR OF THE ENTIRE HOUSE IS ACCESSIBLE TO ALL RESIDING THERE.
#2 - SHOULD THE FAMILY MEMBER PASS AWAY AT NO TIME AFTER THAT DATE CAN THIS AREA BE SEPARATED FROM THE MAIN HOUSE AND BE RENTED. TO DO SO WOULD FORCE THE BUILDING DEPT. TO ISSUE A CITATION AND PURSUE POSSIBLE CRIMINAL COMPLAINTS IN DEDHAM DISTRICT COURT.

The fine for violation of the above is \$300 per day, per offense. Each day is counted as a separate offense. It adds up quickly.

Therefore, you may wish to think about the additional kitchen facilities in depth. The substantial cost of providing kitchen facilities would be limited to use by family members only.

Also, if any of this construction is contemplated it must be under permit and inspected.

You may now ask yourself what's the difference between this and renting a portion of your single family house [dwelling unit] to "borders". Under Norwood's Zoning By-Law, Section 3320-E, Accessory Uses it states, "room and board for not more than 3 persons not members of the household (whether regular or transient)". The definition of a dwelling unit states, "a building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both a refrigerator and sink) not shared with any other unit. Therefore, no additional kitchen facilities can be installed for the "border" under any circumstances. They must use the same kitchen facilities as the family they are bordering with.

*Again, both of the living conditions described above continue to limit the use of a property. **A single family is a single family is a single family!!***

*Sincerely,
Mark G. Chubet
Inspector of Buildings
Town of Norwood*

*6/25/97
2/14/00
10/8/03*

*EXCERPTED FROM THE BOSTON SUNDAY GLOBE [APRIL 5, 1998] Q&A
WRITTEN BY NENA GROSKIND*

RENTING AN ILLEGAL UNIT EXPOSES YOU TO BIG RISKS

Q. I bought a home that is classified as a legal two-family. The prior owner occupied one of the units, rented one to a tenant, and allowed his mother to occupy a third smaller unit that he created in the basement. My friends tell me I will have trouble obtaining an occupancy permit if I try to rent that their, "secret" unit to tenants. Is that true? - J.C. , Brockton

A. This isn't a newly constructed building, so you don't need an occupancy permit. But you still have to be concerned about illegally renting that third unit. In addition to the penalty (probably a fine) that you would face for violating the local zoning requirements, you also might incur significant liability. If local authorities discover the violation (all it would take is a nosy neighbor or an angry tenant), you could be forced to evict the occupant of the illegal unit, who might in turn sue you for damages for violating the terms of the rental agreement.

Also, the threat that your illegal unit might be discovered could discourage you from dealing with a difficult tenant, or weaken your legal position if you try. You'd be arguing that the tenant should be evicted, while the tenant might contend that you had no right to offer the unit for rent in the first place.

Insurance coverage might pose additional problems. If the occupant of the illegal unit causes a fire, or if a guest (or the occupant) is injured on the premises, an insurer might balk at paying for the damages. It's true that renting illegal units is a common practice, but it's a practice that has substantial risks you would be wise not to ignore.

Norwood is no different than other communities that are exposed to this same situation in that it happens here on occasion, too. Each year a few illegal apartments are exposed. What happens next? Without fail the matter is investigated - if the allegation proves to be true - a cease and desist order is issued and a criminal complaint filed in Dedham District Court if the violation is not abated.

Abatement may occur by the owner being ordered to remove all illegal installations and to return the area in violation back to its original state or the owner may be ordered to have all illegal tenants removed immediately or other action taken as the situation warrants. It is not unheard of for the owner to incur legal fees in the process. A copy of the citation is forwarded to the Fire Prevention Office, Board of Health, Wiring Inspector, P&G Inspector, Safety Officer and Assessors.

Currently, the fines associated with this violation are as follows:

Zoning:

*As of this date **\$300 per day for each zoning infraction** noting that each day said violation continues shall be deemed to constitute a separate offense.*

[see next page for Building Code information]

State Building Code 6th edition:

Sec. 118.4 - Violation penalties:

*Whoever violates any provision of 780 CMR shall be punishable by a fine of not more than **\$1,000 or by imprisonment for not more than one year, or both for each such violation. Each day during which a violation exists shall constitute a separate offense.***

The criminal complaint requires that the owner appear in Dedham District Court before a magistrate. After hearing the presentation of both the owner and the Town of Norwood the magistrate makes a ruling as to how this matter will be adjudicated. Should the owner fail to adhere to the ruling - a trial will be scheduled. In either instance the Town will not hesitate to seek remuneration for legal expenses incurred by them. The fines shall be and have been paid directly to the Town of Norwood.

Obviously, it is not in any homeowners best interest to create a situation which places them in the line of "direct fire". Its just not a smart move. In the past those homeowners who have chosen this path have found that the money that they acquired by renting this illegal apartment was spent ten-fold in making the corrections to abate the violation.

**TOWN OF NORWOOD
IN-LAW ACCOMMODATION
AFFIDAVIT OF RESTRICTION**

I/We, _____, do hereby depose and state under oath that I/We are the owner-occupant(s) of a certain premises in the Town of Norwood, County of Norfolk, Massachusetts, known as and numbered: _____ (for title see deed recorded in Book _____, Page _____) and state further that the structure and buildings proposed to be constructed or altered on said premises *shall be used for the purpose of a single family dwelling/house* until such time as the Town of Norwood through its Zoning Bylaws allows for the premises to be used and/or converted to other purposes.

This restriction shall run with and be binding on the premises in subsequent conveyances.

Signed under the pains and penalties of perjury.

Commonwealth of Massachusetts

Norfolk, ss

Date: _____

Then personally appeared the above named _____ and acknowledged the foregoing instrument to be his/her/their free act and deed before me.

Notary Public

My Commission Expires: ____/____/____

This document shall be recorded at the Norfolk County Registry of Deeds and proof of said recording submitted to the Town of Norwood Building Department along with a copy of this affidavit with original signatures and stamps.

This document shall become a part of the permanent record for the above-mentioned property.

Occupants Name

Relationship to Owner

Any change in occupancy requires that you notify the Building Department.