

Illegal Units – Procedure

The following will serve as guidance when an illegal dwelling unit is suspected to exist within a structure.

1. When it is confirmed through examination of the records that an illegal unit was created without the benefit of proper approvals, the exact date of that conversion shall be established to the best of our ability. As much data as possible will be collected from the building files, zoning files, code enforcement files, fire marshal's files, assessing files, old copies of City directories, inquires to the post office, utility companies' records and any other source of information available. A site visit shall be performed to verify the number of existing units. A record of this research shall be recorded on the attached form for future reference and shall act as the basis for future requirements. This form may be initiated by any staff member and routed to other departments for their input.
2. When results of the examination are completed, a committee consisting of the Building Safety Department Manager, the Plans Examiner, the Supervisor of Inspections, the Code Enforcement Manager, the Deputy Zoning Manager and the Fire Marshal shall meet on an as-needed basis to make a determination as to the legal status of the dwelling unit(s) in question. If a determination is made that the dwelling unit is legal, the owner shall be permitted to continue to maintain the unit provided the dwelling unit is found to be in compliance with the Nashua Housing Code. Documentation of the decision shall be placed in the property file as well as the record of inspection.

If the unit is found not to be legal, the following procedures shall be followed.

3. Either the Building Safety Department Manager, the Supervisor of Inspections or the Manager of the Code Enforcement Department shall notify the property owner in writing, via a notice of violation, that their building contains illegal units. This letter shall also inform the property owner of available abatement processes. (See attached example). The Building Safety, Zoning, Fire, Code Enforcement and Assessing departments shall be copied on this letter as well as the mortgage holder if known. If there is no response to this initial letter within 30 days, the Manager of the Code Enforcement Department shall send a final notice of violation to the owner by both first class and certified mail.
4. Once notified, the owner will then have three options. The **first** is to provide the Building Safety, Zoning/Planning and/or Code Enforcement Departments with sufficient documentation to demonstrate that the dwelling unit(s) was/were created with appropriate permits, inspections and approvals. The **second** is to

abandon the illegal unit by applying for and obtaining building/demolition permits to accomplish this. The **third** is to apply for and obtain a building permit/land use approval to create this unit (or units) after-the-fact. This option will first need approvals from the Zoning and/or Planning Departments (some may require site plan review). Fire, Engineering and Building Safety Departments' approvals are also required.

4a. Should the owner seek the required zoning and/or planning approval and subsequently be denied and then proceeds with the work without approvals, said owner shall be prosecuted to the full extent of the law by the Code Enforcement Department.

4b. The enforcement provision above (3a) shall also apply to those owners who have sought zoning and/or planning approvals in the past and have been denied, but created the dwelling units nevertheless..

4c. Owners who may have obtained a variance or special exception to create additional dwelling units, but failed to secure a building permit within twelve (12) months shall have the variance or special exception removed from the official records in accordance with applicable statutes and/or ordinances.

An owner who has had a variance or special exception removed shall then have two (2) options: reapply for and obtain a new variance or special exception; or abandon and demolish the dwelling unit(s).

5. The building/land-use permit application for the creation of additional dwelling unit(s) after-the-fact shall be accompanied by the following information prepared by a licensed architect:

- a. A plot plan showing the structure as it relates to the lot, with set back lines, lot square footage, structure square footage draw to scale.
- b. A floor plan showing the layout of the unit(s) with all rooms labeled and drawn to scale. The floor plan shall also show room dimensions, window and door sizes and locations.
- c. Hardwired smoke detectors are required and shall be indicated on the plan. Smoke detectors shall be located within each bedroom and immediately adjacent to the bedrooms and shall be interconnected.
- d. Separately metered common area smoke detection is also required. Smoke detectors shall be located on each level of common halls and stairways, as well as basement areas. Common area smoke detectors shall be interconnected and be powered from the required common area circuit panel.
- e. Fire separation between units and egress stairs must be provided. Details of the fire-rated assembly must be shown on the plan.

-
- f. Emergency egress and rescue shall be provided from all bedrooms. Egress windows must be shown on the plan.
 - g. All rooms must comply with the current requirements for light and ventilation.
 - h. The new unit shall have access to their electric circuit breaker panel without going through another unit.
 - i. The heating system shall be able to be controlled from within the new unit.
 - j. All Life Safety Code requirements shall be met.
 - k. Alternatives as described in section 104.11 may be used when approved by the building official.
6. A general inspection of the unit shall be scheduled and conducted by the Architect prior to any work being done to help provide the inspectors with a reference point as to how much work is required to bring the unit into compliance. General guidance can be given to the owner at this time as to how to proceed. Existing work completed without permits will be reviewed and, if necessary, finish materials shall be removed to facilitate inspections.
 7. A certificate of occupancy, stating the approved number of units, shall be issued when all work is completed and passes final inspections.