



***Town of Bristol***  
***Policy for Illegal Dwelling Units***  
***(Adopted by Town Council April 19, 2006)***

**Background and Definition:**

The *Zoning Ordinance* of the Town of Bristol includes specific use and dimensional requirements for residential dwelling units within each of the town's zoning districts. Residential dwelling units are allowed within each of the residential zones as well as the limited business, downtown, and waterfront zones. Several of the residential zones allow only single household dwellings, while others allow two-household and multi-household dwellings. Additionally, within each zone where residential dwellings are permitted, the *Zoning Ordinance* identifies minimum lot area requirements per dwelling unit. The purpose of these zoning regulations is to allow for the orderly growth and development of the town, while assuring the health, safety and welfare of residents, and promoting a balance of housing choices for all income levels and groups.

Where a property owner proposes to develop land for residential use, that person is required to comply with the requirements of the *Zoning Ordinance*. In the event that site-specific circumstances make strict compliance with the *Zoning Ordinance* impossible or impractical, the *Ordinance* allows persons to apply to the Zoning Board of Review for a variance from the provisions of the *Ordinance*. Should the Zoning Board find that a request meets the standards for granting a variance from the *Zoning Ordinance*, it may grant a variance with or without conditions. Thus, property owners may receive approval to legally construct single or multiple household dwellings or dwelling units on property that does not comply with the dimensional or permitted use standards of the *Zoning Ordinance*. In addition, a property may contain dwellings or dwelling units that do not comply with requirements of the current *Zoning Ordinance*. These units may have been constructed prior to adoption of the *Zoning Ordinance* in 1961 or prior to the implementation of an amendment to the Ordinance that regulates residential dwellings on that property. Thus, the dwelling unit(s) may be considered legal nonconforming.

The *Zoning Ordinance* of the Town of Bristol defines a dwelling unit as: “A *structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress*”. When determining whether a building contains one or more dwelling units, one must use this definition and evaluate whether the space contains independent living facilities with the above provisions and a separate means of ingress/egress.

## **Statement of Problem:**

Bristol is fortunate to have many residential housing types, which serve a variety of groups and income levels. In recent years Bristol has experienced an increase in demand for affordable rental housing. This demand has likely been driven by several factors including increased property values, increased enrolment at Roger Williams University, and a general desire of many individuals to reside in Bristol. This increased demand for rental housing has resulted in an increase in the number of complaints received by the Town of illegal apartments. These apartments may be located within existing principal dwellings or businesses, or within accessory structures located on residential or business properties. In an effort to control the increase in illegal apartments throughout the community, the Town of Bristol — through its Department of Community Development and Building Inspection office — makes attempts to respond to complaints from residents, identify illegal dwelling units, and enforce provisions of the *Zoning Ordinance*.

When investigating a suspected illegal apartment, the Town must first determine whether the living space meets the definition of a dwelling unit. If it does, then we must determine if the unit is legal. When an illegal dwelling unit is identified, we must then determine if the *Zoning Ordinance* could allow the unit to remain. Often time the unit is located within a building and/or zoning district that may allow the use provided the property owner receives a dimensional variance from the Zoning Board of Review. In other cases, the unit may not be allowed in the zoning district in which it is located and the applicant would be required to seek a use variance from the Zoning Board of Review. In addition to violations of the *Zoning Ordinance*, we have found that the majority of illegal apartments are also in violation of the State Building Code as they were constructed without building permits and thus without inspections by the Building Inspector. When enforcement actions commence, a violation notice is sent to the property owner(s) identifying the violation and spelling out a course of action to remedy the violation. In most instances, the property owners are advised to seek relief from the Zoning Board of Review. If relief is granted and the Zoning Board “legalizes” the unit, the property owner would then be required to work with the Building Inspector to ensure that the dwelling unit meets appropriate health, safety, and building code regulations.

If the Zoning Board of Review does not grant relief or if the property owner does not exercise his/her rights to seek relief or appeal the violation, the property owner would be required to remove the illegal dwelling unit. Often times the requirement to remove an illegal dwelling unit presents its own challenges, as every situation is unique. What might be considered adequate for removing one dwelling unit may not for another — the illegal unit might be located within a multi-family dwelling, a single-family dwelling, a basement, above a garage, or in a separate accessory building. As stated above, to meet the definition of a dwelling unit, the area must provide “independent living facilities” and “a separate means of ingress and egress”. Thus, to remove the illegal dwelling unit, it must be dismantled in a way that it no longer meets the dwelling unit definition. In most situations, this would involve removal of kitchen or bathroom facilities and the separate means of ingress/egress. However, while most people would agree that a house might have an extra bathroom, in other instances it may also have an extra bedroom or an extra stove and/or kitchen. The dwelling unit definition applies in situations where all of these things exist in one area making it an “independent” living unit that would meet all ones needs for cooking, living, sleeping, and sanitation.

Removal of an illegal apartment to an extent where it no longer meets the dwelling unit definition can be subjective and is often open to debate. Often, what the Town requests for actions to remove the illegal dwelling unit is seen as excessive by the property owner. Likewise, the Town sees what is often agreed to by the property owner to remove an illegal unit as insufficient. Thus, there is a need for the Town of Bristol to develop a clear policy for enforcing the provisions of the *Zoning Ordinance* relating to illegal dwelling units. Where an illegal unit is identified, Town officials need clear guidelines for removing the unit or legalizing the unit and ensuring that it meets safety and building codes. In addition, penalties for illegal construction, including the failure to obtain building permits and/or zoning relief should be increased to discourage property owners from creating illegal dwelling units.

### **Policy:**

In an effort to address the above issues and clarify steps that the Town of Bristol will take to regulate illegal apartments, we offer the following recommended policy for adoption by the Town Council:

It is the policy of the Town of Bristol that illegal apartments must be legalized through the variance provisions of the *Zoning Ordinance* or removed from the subject property. Town officials shall adhere to the following steps to enforce the *Zoning Ordinance* and appropriate safety and building codes.

1. When a suspected illegal apartment is identified, the property owner shall be notified in writing of the alleged violation. The notification shall include a request to inspect the premises whereby it will be determined if construction activities within the building were conducted with proper building permits. The primary concern for Town officials should be the health, safety, and welfare of any occupants of the suspected dwelling unit.
2. Property owners shall be given an opportunity to bring the illegal dwelling unit into compliance with zoning and building codes by seeking any necessary relief from the Zoning Board of Review and applying for proper construction permits from the Building Inspector. To obtain proper building permits, the property owner may be required to demonstrate, to the Building Inspector's satisfaction, that building, mechanical, plumbing, and electrical facilities were constructed within compliance of the State's Building Code.
3. Where relief from the *Zoning Ordinance* is not granted by the Zoning Board of Review, or where a property owner fails to comply with efforts of the Town to bring the illegal dwelling unit into compliance, Town officials shall take steps to compel the removal of the dwelling unit through appropriate legal action.

It is the intent of the Town of Bristol that the removal of illegal dwelling units be conducted in a manner that makes it difficult for a property owner to convert the area back to a dwelling unit without proper permits and approvals. To this end, removal of an illegal dwelling unit shall include removal of at least **two** of the following items:

- All components of the **kitchen** including: the stove and its electrical or gas service (disconnect and cap services); the sink and all its plumbing (cap and drain water lines); the refrigerator; and all counters and cabinetry.
- All components of the **bathroom** including: the sink; toilet; and tub/shower (water and drain lines should be severed and capped appropriately). If separate clothes washer/dryer are provided, these too shall be removed and their electrical/gas and water services capped.
- All separate **utility services** including: individual electrical meters; individual gas meters; and individual water meters.
- Separate means of **ingress/egress**: where an illegal dwelling unit is located within a single, two or multi-family dwelling, its separate entrances shall be removed. This could be accomplished by removing interior doorways, opening interior dividing walls and/or sealing outside entrances.

All removal activities shall be properly permitted and conducted under the supervision of the Building Inspector and in compliance with proper building codes.