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Dept. of Building Inspections  
City of Portland Maine



Dorreen

## CITY OF PORTLAND

### Application for Legalization of Nonconforming Dwelling Units

Section 14-391 – In effect March 24, 2004

**APPLIES TO:** Dwelling units (NOT rooming units) that are currently recognized by the City as illegal or nonconforming, and located within the following zones: R-3, R-4, R-5, R-6, or R-7; or the B-1, B-1(b), B-2, B-2(b), or B-3 Zones.

**FEE:** \$300 for each dwelling unit to be legalized by the applicant. When a permit is able to be issued, there is a requirement for a fee of \$100 for each Certificate of Occupancy (C of O) required for each unit to be legalized.

#### **REQUIRED SUBMISSIONS:**

- 1) A plot plan, drawn to scale, showing buildings(s), parking, easements, dumpsters, fencing, public ways and any other significant feature.
- 2) A dimensioned floor plan for every unit in the dwelling, whether or not it is the subject of the application.
- 3) The applicant shall supply competent evidence, such as assessor's records, purchase and sale agreements, affidavits, other public records and such that:
  - a) The nonconforming dwelling unit(s) existed as of 04/01/95
  - b) The structure was originally designed and built to accommodate more than the number of units presently in use.
  - c) The applicant neither constructed NOR established the nonconforming dwelling unit(s).
- 4) The nonconforming dwelling unit(s) must comply or be able to comply with the National Fire Protection Association Life Safety Code – Fire Prevention Code PRIOR to the issuance of the requested permit.
- 5) The nonconforming dwelling unit(s) must comply or be able to comply with the City's Housing Code PRIOR to the issuance of the requested permit.

**NOTIFICATION REQUIREMENTS:** Every application is subject to notifications to owners of abutting properties, as well as owners of properties situated within 300 feet of the structure, with the request to legalize nonconforming dwelling units(s). Any objection must be submitted in writing to the Zoning Administrator (ZA) within ten (10) days of the notice sent to them.

***The Zoning Administrator may only approve such an application if:***

1. The evidence presented by the application satisfies all of the requirements, AND
2. Both the Office of Inspection Services and the Fire Prevention Bureau have certified that the nonconforming unit(s) conform with the applicable codes, AND
3. No abutter or person entitled to notice has requested that the application be referred to the Zoning Board of Appeals (ZBA) for approval as a substitute in place of the ZA.

***Action required by the Zoning Board of Appeals:***

1. When the ZA cannot approve an application based on submitted, or lack of submitted evidence.
2. When a timely objection is filed by a qualified person.
3. When either of the above occurs, the applicant/owner of the submitted legalization request has thirty (30) days from the decision of the ZA or objection to file a Conditional Use Appeal to the ZBA. All current fees for an appeal application and ZBA notifications will apply in addition to all other fees. The ZB fees shall be paid by the applicant/owner of the submitted legalization request.

**Neither the Zoning Administrator NOR the ZBA shall apply the dimensional or parking requirements while making a final decision on such an application.**

When, and IF, a permit is approved and issued for legalization of dwelling unit(s), the FINAL STEP of approval is the issuance of a Certification of Occupancy (C of O). ***This is a separate fee of \$100 per requested unit to be legalized.*** Before a C of O is issued, all housing and fire code, and/or ZB requirements shall be met in full.