



January 24, 2025

Applicants, Agents, Designers, Builders and Residents

**City/County
Planning Division**

**Billings
Metropolitan
Planning
Organization**

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RE: Code Interpretation – Determination of Accessory and Principal Uses in N1, N2 and N3 zones

It has come to the attention of Planning staff that there is confusion on the determination of what is Accessory Use and what is Principal Use within a primary structure (dwelling) in districts that allow one or two-unit dwellings including N1, N2, N3, NX1 and NX2 zone districts. The definitions of zone districts, accessory use and principal use are not numerical and the correct application of these terms in zone districts needs to be clarified. (Section 27-302 (districts), Section 27-1803 (definitions))

This letter is an official **Code Interpretation** issued by the Zoning Coordinator and will be the official interpretation of this part of the code. Code Interpretations are governed by Section 27-1617 of the Zoning code. The following is related to **determining what constitutes an accessory use and what is a principal use within a primary structure (dwelling)** and when an accessory use is no longer considered accessory. This is an official interpretation of the code until such time the Zoning code is amended.

1. A dwelling consists of "living area" that includes all elements required for residential living and may be on multiple floors within a single structure. All living area is cumulative and establishes the "principal" use of the building as a dwelling. The cumulative area is expressed as gross floor area (GFA) of all living space on all floors.
2. A dwelling may also have attached accessory space such as garages, shops or other uses that are not "living area" of the dwelling. This area included within the same building is cumulative and is considered the "accessory area" within the same building. This cumulative accessory area is expressed as GFA.
3. Accessory uses are typically separated by fire-rated walls and doors from the living area of the building. This accessory area may be conditioned (heated and/or cooled) but is not part of the living area of the dwelling. The accessory use areas may be removed or destroyed without affecting the habitability of the dwelling.
4. **The GFA of living area may not be less than the GFA of accessory area when contained within the same building. In other words, at least 50 percent of the gross floor area within the building must be the living area.**

This interpretation applies specifically in zone districts where single or two-unit dwellings are allowed – N1, N2, and N3 and may also include NX1 or NX2 zone districts when those parcels are developed with one or two-unit dwellings.

Detached accessory buildings are not included within the **Code Interpretation**. Detached accessory buildings are covered in Section 27-1008.D of the Zoning code.

Any local zoning that is contrary to private covenants and restrictions applicable to lots or subdivisions is not overruled by this interpretation. All owners and agents are directed to consult or discover whether private covenants and restrictions apply to a parcel or lot. The most restrictive provision will apply (Sec 27-103.C).

Approved by: Nicole M. Cromwell, AICP
Zoning Coordinator

Nicole M. Cromwell

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Sec. 27-302. District descriptions.

Neighborhood districts are primarily intended to allow a mix of residential uses within appropriately scaled buildings to maintain and promote the desired physical character of neighborhoods within the city.

Sec. 27-1803. Definitions.

Accessory: A use, building or structure, part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage.

Attached accessory structure: Any structure or building which has any roof or wall in common with the principal structure. For purposes of zoning, an attached accessory structure is considered part of the principal structure.

Dwelling: A building designed exclusively for residential purposes.

Principal use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.