

City/County
Planning Division

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Planning
Organization

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March 11, 2025

Applicants, Agents, Designers, Builders and Residents

RE: Code Interpretation – **Accessory Dwelling Units (ADUs)**– When and Where Allowed by Right

It has come to the attention of Planning staff that there is confusion on the subject of ADUs and what zone districts and standards apply to such dwelling units. ADUs are outlined in Section 27-1008 – Accessory Use Table and Use Standards (attached). In 2023, the state adopted a new section of law that cities the size of Billings must allow ADUs wherever a single-family dwelling is allowed. The new law (attached) also limits what restrictions a city may place on the construction, tenancy, and site requirements for ADUs.

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 **ADUs** and is an official interpretation of the code until such time the Zoning code is amended, or state law is modified:

1. A single ADU is an allowed use on a parcel within the N1, N2, or N3 zone districts.
2. This allowance is not contingent on the current development of the subject property as long as at least one principal dwelling unit exists or will exist on the parcel.
3. All local use standards in Section 27-1008.G that are **contrary to MCA 76-2-345 are void and will not be enforced including:**
 - a. Any special review requirement
 - b. Owner tenancy of one of the dwelling units
 - c. Deed restrictions
 - d. Filing of conditions of approval with the Clerk and Recorder
 - e. Location of ADU or any standard that is different from the principal/primary dwelling
 - f. Architectural design of the ADU including any material requirements
 - g. Any additional off-street parking for an ADU
4. ADUs that are detached may be up to 75% of the gross floor area (gfa) of the primary dwelling or 1,000 square feet whichever is less.
5. ADUs that are attached to a primary dwelling may be up to 80% of the gfa of the primary dwelling or 1,000 square feet whichever is less.

All ADUs must be permanent structures and must receive a building permit prior to the start of construction.

Any local or state law 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 prior to beginning an ADU project.

Approved by: Nicole M. Cromwell, AICP
Zoning Coordinator

Nicole M. Cromwell