

BUILDING DIVISION – POLICIES AND PROCEDURES

DATE: 9/29/2022

CREATION OF DWELLING UNIT

SCOTT GREER, CBO
RICK MURIBY

CHIEF BUILDING OFFICIAL
DIRECTOR OF PLANNING AND DEVELOPMENT

ISSUE: What criteria should be used in determining when a new and separate dwelling unit has been created?

ANALYSIS: Issues have arisen as to what would constitute a new dwelling unit when a remodel, addition, or other construction occurs. When does new construction create a new dwelling and become a zoning/land use violation? At what point should the construction code requirements for a new dwelling unit apply? Items such as, but not limited to, the One-Hour fire rated walls and ceilings between units, the prohibition of mixing air between units from forced or gravity heating and/or cooling systems, the requirements for two 20 ampere small appliance circuits for the kitchen/dining areas, or **FIRE SPRINKLERS** etc.)?

Section 18.04.085 defines a dwelling unit as "a building or any portion of a building designed for occupancy as a complete, independent living quarters for one or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants."

Section 202 of the 2021 International Building Code and Article 100 of the 2020 National Electrical Code defines a dwelling unit as "A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

From these definitions it is evident that the elements that commonly define a dwelling unit are interconnected areas for living, sleeping, eating, cooking and sanitation. In today's home it is common to have multiple living areas (i.e. family rooms, game rooms, TV/Home theater room, etc), eating areas (kitchen nook and dinning room), bedrooms, and bathrooms.

It is also common to have an additional wet bar or accessory food prep area that is provided with a refrigerator, bar sink, and portable countertop appliances (i.e. blender, toaster, and microwave). While this area may appear to function as a separate and additional kitchen, it is generally not provided with permanently installed cooking appliances (i.e. free standing or built in stove and/or oven). This type of area is suitable for snacks and minor cooking and food prep but is not suitable as a fully functional kitchen.

POLICY & PROCEDURE: A dwelling unit within a building shall be presumed to have been created when contiguous areas for living, sleeping, eating, cooking, and sanitation are designed in such a manner as to establish a distinct, separate and self contained living or housekeeping unit. The existence of a private or separate entry leading directly from the outside of the building, or from a common hallway or stairway, shall also be an indicator of a separate dwelling unit.

The existence of all of the following conditions shall be considered to remove the assumption of the creation of any dwelling unit.

- An unsecured internal access/connection is maintained that provides full access to all of the common living areas (exclusive of private bedroom/bath areas) to all occupants of the dwelling unit.
- Only one distinct area within the building has been provided with permanently installed cooking appliances (free standing or built in stove and oven).
- No separate electrical circuits or gas lines designed to, or capable of, powering or fueling permanently installed cooking appliances (free standing or built in stove and oven) are installed to wet bar or accessory food prep and similar areas.
- No separate entry leading directly from the outside of the building or from a common hallway or stairway exists.

The Building Division and/or The Planning and Development Department may also impose additional administrative requirements, such as the recording of a "Declaration of Use", when it is determined to be warranted by specific conditions, such as a separate exterior entry.

The Building Division and/or The Planning and Development Department may also grant modifications to this interpretation based on individual circumstances and may impose additional conditions to approve the modifications as deemed necessary.

This policy shall not be interpreted to waive, modify, or void any other rule, regulation, ordinance, or any other requirement of the City of Golden. The creation of a dwelling unit shall comply with all Planning and Zoning requirements, including the Residential Growth Ordinance, and all Building Division requirements. Building permits, inspections and approvals are required for all building, electrical, mechanical and/or plumbing work performed. Where a conflict arises between this policy and other requirements the most restrictive shall govern.
