

DEPARTMENT OF SAFETY AND PERMITS  
**CITY OF NEW ORLEANS**

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## ZONING INTERPRETATION MEMORANDUM

Memorandum Z-20-02

**DATE: November 30, 2020**

**FROM: Tammie Jackson, Director**

**RE: Kitchen Facilities Requirements in Dwelling Units**

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The Department is frequently asked to make determinations on what is required to be in a kitchen in order for the unit containing the kitchen to be considered a legal dwelling unit. The CZO provides the following relevant definitions at 26.3:

**Dwelling.** A structure, or portion of a structure, designed or used exclusively for permanent residential purposes, including single-family, two-family, townhouse, and multi-family dwellings, but not including trailers, hotels/motels, rooming houses, or automobiles.

**Dwelling Unit.** A room, or group of rooms, providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation for one or more persons.

The Department must make multiple types of determinations around kitchens/cooking facilities. The first type of determination is in structures in which habitation may have occurred and which may have obtained legally non-conforming status as additional dwelling units. Frequently, these questions center around the presence of a kitchen since permanent provisions for cooking are a required component of a dwelling unit. The second type of determination is during the review of building permits. Sometimes, the Department must make a determination about what is required to be part of a kitchen within a dwelling unit, or if the addition of certain type of cooking facilities would create additional dwelling units, which may be prohibited in certain districts or structures.

### **Kitchen Facilities in Non-Conforming Use Determinations**

It is the interpretation of this Department that “permanent provisions for ... cooking” as described in CZO 26.3 shall include any permanent provision for cooking capabilities, including, but not limited to, the presence of operational gas lines to the kitchen area of the alleged dwelling unit or the inclusion of an oven or range. In certain cases, the presence of a range outlet in the kitchen may be sufficient to show that permanent provisions for cooking were present, but those cases will be determined individually, based on the facts presented. This could include if they are able to document that someone was living in the alleged dwelling unit.



## **Kitchen Facilities Requirements and Limitations in New Constructions and Renovations**

As per the definition, a dwelling unit must contain “permanent provisions for ... cooking;” therefore, a dwelling unit must provide a kitchen. A dwelling unit must contain one kitchen, but more than one kitchen is prohibited in a single dwelling unit as multiple kitchens generally constitute multiple dwelling units.<sup>1</sup>

The presence of more than one kitchen is an important factor, but not the only factor in determining if a property has more than one dwelling unit. For example, if the physical layout of a structure indicates spaces that would be used as separate dwelling units, then it may be considered multiple dwelling units even if there is not a kitchen in each dwelling unit, as interpreted by this Department (see below).

The Department often considers proposals to add cooking facilities to accessory structures. The CZO provides the following relevant definitions at 26.3:

**Accessory Structure.** A structure located on the same lot as, and of a nature and use clearly incidental and subordinate to, the principal structure, that does not contain habitable space.

**Habitable Space.** A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Based on these definitions, accessory structures are not permitted to provide habitable space, which includes space for cooking, so kitchens are prohibited in accessory structures. A pool house is permitted to have a wet bar, subject to the limitations in CZO 21.6.Z.5.

It is the interpretation of this Department that to be considered a kitchen, it must provide at least one of the following: an oven or range, operational gas lines or the presence of a range outlet that would allow for the installation of an oven or range, or a built-in stove top with at least 2 burners.

Furthermore, the presence of the following items does not automatically constitute a kitchen: sink, refrigerator, microwave, wet bar, and small plug-in appliances (hot plate, toaster oven, toaster, electric tea kettle, etc.).

Finally, it is important to note that a lack of a kitchen does not permit habitation where it is otherwise prohibited, such as an accessory structure. Therefore, it would still be considered a zoning violation for someone to live in or rent out as living space an accessory structure, even if there is no kitchen present.

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<sup>1</sup> Outdoor kitchens, or cooking facilities that are not in an enclosed structure, shall not be considered an additional kitchen.