

## STATE BUILDING CODE INTERPRETATION NO. I-26-08

May 20, 2009

The following is being offered in response to your letter in which you seek a formal interpretation. The question would apply to Section R317.1, of the 2003 International Residential Code portion of the 2005 State Building Code. Your specific area of concern is the code application between in-law apartment and two-family dwellings.

### Question 1:

"Is an "in-law apartment" a two-family dwelling? The living area meets the definition of a dwelling unit, except they have a common door between each dwelling unit. An example; common door between the kitchen areas or living areas."

### Answer 1:

The term "In-Law Apartment" is not defined in the State Building Code. The code does not prohibit multiple bathrooms, kitchens, living or sleeping rooms in a single family dwelling. A single family dwelling with multiple of these rooms would require a building layout which would demonstrate an interconnection between all rooms in the dwelling unit. For example, if one must exit the single family dwelling and travel out of doors to re-enter the apartment, such building layout would not be a single family dwelling but a two family dwelling. The code defines "dwelling" which states in part: *Any building that contains one or two dwelling units.* "Dwelling Unit" is defined as: *A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.* The permit applicant needs to define, based on the building code definitions, the buildings intended use and whether the building contains one or two dwelling units. Once this information is provided, the building official can review what is submitted for code compliance.

### Question 2:

"Another scenario would be a basement being converted to an "in-law apartment" and the access between the primary residence and the apartment is the basement stairs."

### Answer 2:

Please refer to Question 1 answer above.

### Question 3:

"If the answer to Q1 is no, then would the answer be changed if the common area was an accessory structure? An example would be if configured as primary residence/garage/apartment or primary residence/sunroom apartment. In other words the garage or sunroom are common between the dwelling units."

### Answer 3:

Please refer to Question 1 answer above.