

SENATE BILL NO. 528

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MUNICIPAL ZONING LAWS TO ALLOW FOR ACCESSORY DWELLING UNITS; REQUIRING MUNICIPALITIES TO ADOPT CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; PROHIBITING CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; ALLOWING A MUNICIPALITY TO CHARGE A FEE TO REVIEW APPLICATIONS TO CREATE ACCESSORY DWELLING UNITS; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Accessory dwelling units -- regulations -- restrictions. (1) (A) A municipality shall adopt regulations under this chapter that:

(a) ~~allow a minimum of one accessory dwelling unit by right on a lot or parcel that contains a single-family dwelling;~~

(b) ~~allow an accessory dwelling unit that is:~~

(i) ~~attached to a single-family dwelling;~~

(ii) ~~detached from a single-family dwelling;~~

(iii) ~~contained within the single-family dwelling; or~~

(iv) ~~currently constructed or may be constructed;~~

(c) ~~set a maximum gross floor area for accessory dwelling units that is the lesser of 1,000 square feet or the gross floor area of the single-family dwelling; and~~

(d) ~~allow an accessory dwelling unit to be used as rental housing.~~

(B) AN ACCESSORY DWELLING UNIT MAY BE ATTACHED, DETACHED, OR INTERNAL TO THE SINGLE-FAMILY DWELLING ON A LOT OR PARCEL.

(C) IF THE ACCESSORY DWELLING UNIT IS DETACHED FROM OR ATTACHED TO THE SINGLE-FAMILY DWELLING, IT MAY NOT BE MORE THAN 75% OF THE GROSS FLOOR AREA OF THE SINGLE-FAMILY DWELLING OR 1,000

SQUARE FEET, WHICHEVER IS LESS.

(2) A municipality may not:

(a) require that a lot or parcel have additional parking to accommodate an accessory dwelling unit or require fees in lieu of additional parking;

(b) require that an accessory dwelling unit match the exterior design, roof pitch, or finishing materials of the single-family dwelling;

(c) require that the single-family dwelling or the accessory dwelling unit be occupied by the owner;

(d) require a familial, marital, or employment relationship between the occupants of the single-family dwelling and the occupants of the accessory dwelling unit;

~~(e) require periodic license renewal of an accessory dwelling unit;~~

~~(f)~~(E) assess impact fees on the construction of an accessory dwelling unit;

~~(g)~~(F) require improvements to public streets as a condition of permitting an accessory dwelling unit,

EXCEPT AS NECESSARY TO RECONSTRUCT OR REPAIR A PUBLIC STREET THAT IS DISTURBED AS A RESULT OF THE CONSTRUCTION OF THE ACCESSORY DWELLING UNIT;

~~(h)~~(G) set maximum building heights, minimum setback requirements, minimum lot sizes, maximum lot coverages, or minimum building frontages for accessory dwelling units that are more restrictive than those for ~~THE single-family dwellings~~ DWELLING ON THE LOT;

~~(i)~~(H) impose more onerous ~~zoning regulations~~ DEVELOPMENT STANDARDS on an accessory dwelling unit beyond those set forth in this section; or

~~(j)~~(I) require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for residential use by a single-family dwelling. This subsection ~~(2)(j)~~ (2)(I) may not be construed to prohibit restrictive covenants concerning accessory dwelling units entered into between private parties, but the municipality may not condition a permit, license, or use of an accessory dwelling unit on the adoption or implementation of a restrictive covenant entered into between private parties.

(3) NOTHING IN THIS SECTION PROHIBITS A MUNICIPALITY FROM REGULATING SHORT-TERM RENTALS AS DEFINED IN 15-68-101.

~~(3)~~(4) A municipality may require a fee for reviewing applications to create accessory dwelling units.

The one-time application fee for the license may be up to \$250 for each accessory dwelling unit. Nothing in this

section prohibits a municipality from requiring its usual building fees in addition to the application fee.

~~(4)(5)~~ A municipality that has not adopted or amended regulations pursuant to this section by January 1, 2024, shall review and permit accessory dwelling units in accordance with the requirements of this section until regulations are adopted or amended. Regulations in effect on or after January 1, 2024, THAT APPLY TO ACCESSORY DWELLING UNITS AND do not comply with this section are void.

~~(5)(6)~~ The provisions of this section do not supersede applicable building codes, fire codes, or public health and safety regulations adopted pursuant to Title 50, chapter 2.

~~(7)~~ A MUNICIPALITY MAY REQUIRE AN ACCESSORY DWELLING UNIT TO HAVE A WILL-SERVE LETTER FROM BOTH A MUNICIPAL WATER SYSTEM AND A MUNICIPAL SEWER SYSTEM.

~~(8)~~ NOTHING IN THIS SECTION PROHIBITS A MUNICIPALITY FROM ADOPTING REGULATIONS THAT ARE MORE PERMISSIVE THAN THE ACCESSORY DWELLING UNIT PROVISIONS PROVIDED IN THIS SECTION.

~~(6)(9)~~ For the purposes of this section:

(a) "accessory dwelling unit" means a self-contained living unit on the same parcel as a single-family dwelling of greater square footage that includes its own cooking, sleeping, and sanitation facilities and complies with or is otherwise exempt from any applicable building code, fire code, and public health and safety regulations adopted pursuant to Title 50, chapter 2.

(b) "by right" means the ability to be approved without requiring:

(i) a public hearing;

(ii) a variance, conditional use permit, special permit, or special exception; or

(iii) other discretionary zoning action other than a determination that a site plan conforms with applicable zoning regulations;

(c) "gross floor area" means the interior habitable area of a single-family dwelling or an accessory dwelling unit; ~~and~~

(d) "municipality" means an incorporated city, town, or consolidated city-county that exercises zoning powers under this part; AND

~~(E)~~ "SINGLE-FAMILY DWELLING" MEANS A BUILDING WITH ONE OR MORE ROOMS DESIGNED FOR RESIDENTIAL LIVING PURPOSES BY ONE HOUSEHOLD THAT IS DETACHED FROM ANY OTHER DWELLING UNIT.

1 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
2 integral part of Title 76, chapter 2, part 3, and the provisions of Title 76, chapter 2, part 3, apply to [section 1].

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4 NEW SECTION. **Section 3.** **Effective date.** [This act] is effective January 1, 2024.

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