

Additional Dwelling Unit References

Definition from 2022 Red Lodge Zoning Regulations

Accessory Dwelling Unit (ADU): An accessory dwelling unit (ADU) is a secondary house or apartment that shares the building lot of a larger, primary dwelling. The unit cannot be bought or sold separately but can be used for rental income. An ADU will provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU shall not exceed 1,200 square feet in gross floor area.

Further Clarification of ADU's in Zoning Regulations

4.4.22 Specific Uses

F. Accessory Dwelling Unit (ADU) /Guest Houses

1. Relationship to Principal Dwelling

a. Attached, Separate

The ADU/Guest House may be attached to the principal dwelling with an independent access or in a separate building on the same lot as the principal building.

b. Dimensional Standards

The ADU/ Guest House shall comply with all dimensional standards that are applicable to the principal building.

c. Not Sold Separately

An ADU/Guest House cannot be sold separately from the principal dwelling.

d. Permanent Structure

The ADU/ Guest House shall be on a permanent foundation. A mobile home, travel trailer, RV or similar temporary or transportable vehicle or structure shall not be approved as an ADU/Guest House.

2. Size

An ADU/Guest House shall not exceed 1,200 square feet in gross floor area.

3. One per Lot

Not more than one (1) ADU/ Guest House can be located on a single lot, tract or parcel.

4. No Home Occupation

An ADU/ Guest House shall not contain a Home Occupation.

5. Parking

~~A minimum of one (1) off-street parking space shall be provided for the ADU/Guest House. (No longer applicable per SB 528).~~

Summary of 2023 Senate Bill 528 (ADU bill)

-Effective Jan 1, 2024

-Applies by what use is on property currently

-Must allow one attached, detached, or internal ADU by-right on a lot or parcel that contains a single-family dwelling

-By-right size is lesser of 75% of the gross floor area of the dwelling or 1,000sf (no internal size requirement)

-CANNOT require: parking or fees in-lieu, ADU match design/materials/roof pitch of existing dwelling, owner or relationship occupancy of ADU or dwelling, impact fee or restrictive covenant, development standards different from dwelling

-CAN: restrict or prohibit use of ADU as an STR, require reconstruction of streets disturbed during construction (through a permit condition), require an application fee up to \$250 per ADU permit, require will-serve letter from both water or sewer system, larger ADU's to continue to meet existing or new standards and requirements, and collect certain impact fees.



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:

Section 1. Accessory dwelling units -- regulations -- restrictions. (1) (a) A municipality shall adopt regulations under this chapter that allow a minimum of one accessory dwelling unit by right on a lot or parcel that contains a single-family dwelling.

(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) assess impact fees on the construction of an accessory dwelling unit;
 - (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;
 - (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 dwelling on the lot;
 - (h) impose more onerous development standards on an accessory dwelling unit beyond those set forth in this section; or
 - (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)(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.
- (4) A municipality may require a fee for reviewing applications to create accessory dwelling units. The one-time application fee 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.
- (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.
- (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.

(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;

(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.

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

Section 3. Effective date. [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,
SB 528, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 528

INTRODUCED BY G. HERTZ

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.