Amendment - 1st Reading/2nd House-blue - Requested by: Katie Zolnikov - (H) Local Government

- 2023

68th Legislature 2023 Drafter: Laura Sankey Keip, 406-444-4410 SB0528.002.002

1 SENATE BILL NO. 528 2 INTRODUCED BY G. HERTZ 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MUNICIPAL ZONING LAWS TO ALLOW FOR 4 ACCESSORY DWELLING UNITS; REQUIRING MUNICIPALITIES TO ADOPT CERTAIN REGULATIONS IN 5 6 RELATION TO ACCESSORY DWELLING UNITS; PROHIBITING CERTAIN REGULATIONS IN RELATION 7 TO ACCESSORY DWELLING UNITS; ALLOWING A MUNICIPALITY TO CHARGE A FEE TO REVIEW APPLICATIONS TO CREATE ACCESSORY DWELLING UNITS; AND PROVIDING A DELAYED EFFECTIVE 8 9 DATE." 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 NEW SECTION. Section 1. Accessory dwelling units -- regulations -- restrictions. (1) A 13 14 municipality shall adopt regulations under this chapter that: 15 allow a minimum of one accessory dwelling unit by right on a lot or parcel that contains a (a) 16 single-family dwelling; 17 (b) allow an accessory dwelling unit that is: (i) attached to a single-family dwelling; 18 19 (ii) detached from a single-family dwelling; 20 (iii) contained within the single-family dwelling; or 21 (iv) currently constructed or may be constructed; 22 (c) set a maximum gross floor area for accessory dwelling units that is the lesser of 1,000 square 23 feet or the gross floor area of the single-family dwelling; and 24 (d) allow an accessory dwelling unit to be used as rental housing. 25 (2) A municipality may not: require that a lot or parcel have additional parking to accommodate an accessory dwelling unit 26 (a) 27 or require fees in lieu of additional parking;



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1	(b)	require that an accessory dwelling unit match the exterior design, roof pitch, or finishing	
2	materials of the single-family dwelling;		
3	(c)	require that the single-family dwelling or the accessory dwelling unit be occupied by the owner;	
4	(d)	require a familial, marital, or employment relationship between the occupants of the single-	
5	family dwelling and the occupants of the accessory dwelling unit;		
6	(e)	require periodic license renewal of an accessory dwelling unit;	
7	(f)	assess impact fees on the construction of an accessory dwelling unit;	
8	(g)	require improvements to public streets as a condition of permitting an accessory dwelling unit;	
9	(h)	set maximum building heights, minimum setback requirements, minimum lot sizes, maximum	
10	lot coverages, or minimum building frontages for accessory dwelling units that are more restrictive than those		
11	for single-family dwellings;		
12	(i)	impose more onerous zoning regulations on an accessory dwelling unit beyond those set forth	
13	in this section; or		
14	(j)	require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for	
15	residential use by a single-family dwelling. This subsection (2)(j) may not be construed to prohibit restrictive		
16	covenants con	cerning accessory dwelling units entered into between private parties, but the municipality may	
17	not condition a permit, license, or use of an accessory dwelling unit on the adoption or implementation of a		
18	restrictive covenant entered into between private parties.		
19	<u>(3)</u>	Nothing in this section prohibits a municipality from regulating short-term rentals as defined in	
20	<u>15-68-101.</u>		
21	(3) (4)	A municipality may require a fee for reviewing applications to create accessory dwelling units.	
22	The one-time a	application fee for the license may be up to \$250 for each accessory dwelling unit. Nothing in this	
23	section prohibits a municipality from requiring its usual building fees in addition to the application fee.		
24	(4) (5)	A municipality that has not adopted or amended regulations pursuant to this section by January	
25	1, 2024, shall r	eview and permit accessory dwelling units in accordance with the requirements of this section	
26	until regulations are adopted or amended. Regulations in effect on or after January 1, 2024, THAT APPLY TO		
27	ACCESSORY DWELLING UNITS AND do not comply with this section are void.		



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1	(5) (6)	The provisions of this section do not supersede applicable building codes, fire codes, or public	
2	health and safety regulations adopted pursuant to Title 50, chapter 2.		
3	(6) (7)	For the purposes of this section:	
4	(a)	"accessory dwelling unit" means a self-contained living unit on the same parcel as a single-	
5	family dwelling of greater square footage that includes its own cooking, sleeping, and sanitation facilities and		
6	complies with or is otherwise exempt from any applicable building code, fire code, and public health and safety		
7	regulations adopted pursuant to Title 50, chapter 2.		
8	(b)	"by right" means the ability to be approved without requiring:	
9	(i)	a public hearing;	
10	(ii)	a variance, conditional use permit, special permit, or special exception; or	
11	(iii)	other discretionary zoning action other than a determination that a site plan conforms with	
12	applicable zoning regulations;		
13	(c)	"gross floor area" means the interior habitable area of a single-family dwelling or an accessory	
14	dwelling unit; and		
15	(d)	"municipality" means an incorporated city, town, or consolidated city-county that exercises	
16	zoning powers under this part.		
17			
18	NEW S	SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an	
19	integral part of	Title 76, chapter 2, part 3, and the provisions of Title 76, chapter 2, part 3, apply to [section 1].	
20			
21	NEW S	SECTION. Section 3. Effective date. [This act] is effective January 1, 2024.	
22		- END -	

