

SENATE BILL NO. 532

INTRODUCED BY F. MANDEVILLE, D. ZOLNIKOV, J. FULLER, C. GLIMM, G. HERTZ, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY ZONING LAWS TO ALLOW FOR ACCESSORY DWELLING UNITS; REQUIRING COUNTIES TO ADOPT CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; PROHIBITING CERTAIN REGULATIONS IN RELATION TO ACCESSORY DWELLING UNITS; ALLOWING A COUNTY TO CHARGE A FEE TO REVIEW APPLICATIONS TO CREATE ACCESSORY DWELLING UNITS; AND AMENDING SECTION 76-4-130, MCA."

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

NEW SECTION. Section 1. Accessory dwelling units -- regulations -- restrictions. (1) (a) In jurisdictional areas where the board of county commissioners has established zoning regulations under this part, the regulations must 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 county 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;

1 (e) assess impact fees on the construction of an accessory dwelling unit;

2 (f) require improvements to public streets as a condition of permitting an accessory dwelling unit,
3 except as necessary to reconstruct or repair a public street that is disturbed as a result of the construction of
4 the accessory dwelling unit;

5 (g) set maximum building heights, minimum setback requirements, minimum lot sizes, maximum
6 lot coverages, or minimum building frontages for accessory dwelling units that are more restrictive than those
7 for the single-family dwelling on the lot;

8 (h) impose more onerous development standards on an accessory dwelling unit beyond those set
9 forth in this section; or

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

15 (3) Nothing in this section prohibits a county from regulating short-term rentals as defined in 15-68-
16 101.

17 (4) A county may require a fee for reviewing applications to create accessory dwelling units. The
18 one-time application fee may be up to \$250 for each accessory dwelling unit. Nothing in this section prohibits a
19 county from requiring its usual building fees in addition to the application fee.

20 (5) A county that has not adopted or amended regulations pursuant to this section by [the effective
21 date of this act] shall review and permit accessory dwelling units in accordance with the requirements of this
22 section until regulations are adopted or amended. Regulations in effect on or after [the effective date of this
23 act], that apply to accessory dwelling units and do not comply with this section are void.

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

26 (7) (a) A county may require an expedited sanitation review as allowed in subsection (7)(b).

27 (b) The department of environmental quality shall provide for a 15-day expedited sanitation review
28 under 76-4-130 for an accessory dwelling unit that is being added to a parcel with an existing subsurface on-

1 site wastewater treatment system that has capacity for the accessory dwelling unit.

2 (8) Nothing in this section prohibits a county from adopting regulations that are more permissive
3 than the accessory dwelling unit provisions provided in this section.

4 (9) For the purposes of this section:

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

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

10 (i) a public hearing;

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

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

14 (c) "county" means a county that exercises zoning powers under this part;

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

17 (e) "single-family dwelling" means a building with one or more rooms designed for residential living
18 purposes by one household that is detached from any other dwelling unit.

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20 **Section 2.** Section 76-4-130, MCA, is amended to read:

21 **"76-4-130. Deviation from certificate of subdivision approval -- expedited review.** (1) Except as
22 provided in subsection (2), a person may not construct or use a facility that deviates from the certificate of
23 subdivision approval until the reviewing authority has approved the deviation.

24 (2) (a) A person may deviate from the certificate of subdivision approval without approval by the
25 reviewing authority if the deviation consists solely of connecting to municipal, county water and/or sewer district,
26 or regional authority facilities in place of previously approved facilities. The department may require notification
27 when a person connects to municipal, county water and/or sewer district, or regional authority facilities.

28 (b) A person qualifies for a 15-day expedited review under this part to deviate from the certificate

1 of subdivision approval if the person intends to add an accessory dwelling unit as provided for in [section 1] to
 2 an existing on-site wastewater treatment system that has capacity for the accessory dwelling unit."

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

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