

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3053

By Delegates Holstein, Young, Shamblin, J. Cannon,

Chiarelli, Lewis, Pritt, and Willis

[Introduced February 28, 2025; referred to the

Committee on Government Organization]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding two new sections, designated §8A-7-14 and §8A-7-15, relating to 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 establishing zoning regulation criteria and guidelines.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ZONING ORDINANCE.

§8A-7-14. Accessory dwelling units; regulations; restrictions.

(a) Notwithstanding any other provision of this code to the contrary, a municipality shall adopt regulations under this section that allow a minimum of one accessory dwelling unit by right on a lot or parcel that contains a single-family dwelling.

An accessory dwelling unit may be attached, detached, or internal to the single-family dwelling on a lot or parcel.

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.

(b) A municipality may not:

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

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

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

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

(5) Assess impact fees on the construction of an accessory dwelling unit;

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

(7) 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;

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

(9) Require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for residential use by a single-family dwelling. This subsection may not be construed to prohibit restrictive covenants concerning accessory dwelling units to be entered 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.

(c) Nothing in this section prohibits a municipality from regulating short-term rentals.

(d) 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.

(e) A municipality that has not adopted or amended regulations pursuant to this section by January 1, 2026, 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, 2026, that apply to the accessory dwelling units and do not comply with this section are void.

(f) The provisions of this section do not supersede applicable building codes, fire

44 codes, or public health and safety regulations.

45 A municipality may require an accessory dwelling unit to have a will-serve letter from both a
46 municipal water system and a municipal sewer system.

47 (g) Nothing in this section prohibits a municipality from adopting regulations that are
48 more permissive than the accessory dwelling unit provisions provided in this section.

49 (h) For the purposes of this section:

50 (1) "Accessory dwelling unit" means a self-contained dwelling unit on the same parcel
51 as a single-family dwelling of greater square footage that includes its own cooking, sleeping, and
52 sanitation facilities and complies with or is otherwise exempt from any applicable building code,
53 fire code, and public health and safety regulations.

54 (2) "By right" means the ability to be approved without requiring:

55 (A) A public hearing;

56 (B) A variance, conditional use permit, special permit, or special exception; or

57 (C) Other discretionary zoning action other than a determination that a site plan
58 conforms with applicable zoning regulations;

59 (3) "Gross floor area" means the interior habitable area of a single-family dwelling or
60 an accessory dwelling unit;

61 (4) "Municipality" means an incorporated city, town, or consolidated city-county that
62 exercises zoning powers under this section; and

63 (5) "Single-family dwelling" means a building with one or more rooms designed for
64 residential living purposes by one household that is detached from any other dwelling unit.

§8A-7-15. Criteria and guidelines for zoning regulations.

1 (a) Zoning regulations must be:

2 (1) made in accordance with the growth policy; and

3 (2) Designed to:

4 (A) Secure safety from fire and other dangers;

5 (B) Promote public health, public safety, and general welfare; and

6 (C) Facilitate the adequate provision of transportation, water, sewage, schools, parks,
7 and other requirements;

8 (b) In the adoption of zoning regulations, the municipality or county shall consider:

9 (1) Reasonable provision of adequate light and air;

10 (2) The effect on motorized and nonmotorized transportation systems;

11 (3) Compatible urban growth in the vicinity of cities and towns that at a minimum must
12 include the areas around municipalities;

13 (4) The character of the district and its peculiar suitability for particular uses; and

14 (5) Conserving the value of buildings and encouraging the most appropriate use of
15 land throughout the jurisdictional area.

16 (c) Zoning regulations must:

17 (1) As nearly as possible, be made compatible with the zoning ordinances of nearby
18 municipalities;

19 (2) Allow for at least one accessory dwelling unit as a permitted use on at least 35% of
20 the lots or parcels zoned for residential use; and

21 (3) Ensure manufactured housing as defined in §21-9-2 of this code is treated the
22 same as other types of conventional housing allowed in a zoning district.

23 (d) An accessory dwelling unit:

24 (1) May be 75% of the square footage of the primary dwelling;

25 (2) May not be considered to exceed the allowable density for the lot or parcel where it
26 is located; and

27 (3) Must be considered a residential use consistent with the existing growth policy and
28 zoning regulations for the lot or parcel.

29 (e) Zoning regulations may not include a requirement to:

30 (1) Pay a fee for the purpose of providing housing for specified income levels or at

31 specified sale prices; or

32 (2) Dedicate real property for the purpose of providing housing for specified income
33 levels or at specified sale prices;

34 (3) Except to provide for accessible parking spaces, provide minimum parking space
35 requirements for accessory dwelling units;

36 (4) Implement a minimum lot size for a parcel or lot with an accessory dwelling unit that
37 is larger than the minimum lot size for other single-family dwellings or townhouses in the same
38 zoning district;

39 (5) Implement setback requirements;

40 (6) That are in addition to existing setback requirements for an accessory dwelling unit
41 that utilizes an existing structure or that is constructed in the same location and with the same
42 dimensions as an existing structure; or

43 (7) For an accessory dwelling unit that are greater than the setback requirements for
44 the primary dwelling; or

45 (8) Establish owner occupancy requirements for any dwelling on a lot or parcel that
46 contains one or more accessory dwelling units.

47 (f) Establish owner occupancy requirements for any dwelling on a lot or parcel that
48 contains one or more dwelling units.

49 (g) A dedication of real property as prohibited in §8A-7-15(e)(2) of this code includes a
50 payment or other contribution to a local housing authority or the reservation of real property for
51 future development of housing for specified income levels or specified sales prices.

52 (h) As used in this section, "accessory dwelling unit" has the meaning provided in §8A-
53 7-14 of this code.

NOTE: The purpose of this bill is to revise municipal zoning laws to allow for accessory dwelling units; require municipalities to adopt certain regulations in relation to accessory dwelling units; prohibit certain regulations in relation to accessory dwelling units; allow a

municipality to charge a fee to review applications to create accessory dwelling units; and establish zoning regulation criteria and guidelines.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.