

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3052

By Delegates Holstein, Young, Shamblin, Chiarelli,

Wills, and Lewis

[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 a new article, designated §8A-7A-1 and §8A-7A-2, relating to prohibiting municipalities from adopting certain regulations in relation to accessory dwelling units.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7A. ACCESSORY DWELLING UNITS.

§8A-7A-1. Accessory dwelling units; regulations; restrictions.

(a) (1) 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.

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

(3) 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 repair a public street that is disturbed as a result of the construction of the accessory dwelling unit;

21 (7) Set maximum building heights, minimum setback requirements, minimum lot sizes,
22 maximum lot coverages, or minimum building frontages for accessory dwelling units that are more
23 restrictive than those for the single-family dwelling on the lot;

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

26 (9) Require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned
27 for residential use by a single-family dwelling. This subsection (b)(9) may not be construed to
28 prohibit restrictive covenants concerning accessory dwelling units entered into between private
29 parties, but the municipality may not condition a permit, license, or use of an accessory dwelling
30 unit on the adoption or implementation of a restrictive covenant entered into between private
31 parties.

32 (c) A municipality may require a fee for reviewing applications to create accessory dwelling
33 units. The one-time application fee may be up to \$250 for each accessory dwelling unit. Nothing in
34 this section prohibits a municipality from requiring its usual building fees in addition to the
35 application fee.

36 (d) A municipality that has not adopted or amended regulations pursuant to this section by
37 January 1, 2026, shall review and permit accessory dwelling units in accordance with the
38 requirements of this section until regulations are adopted or amended. Regulations in effect on or
39 after January 1, 2026, that apply to accessory dwelling units and do not comply with this section
40 are void.

41 (e) The provisions of this section do not supersede applicable building codes, fire codes, or
42 public health and safety regulations.

43 (f) A municipality may require an accessory dwelling unit to have a will-serve letter from
44 both a municipal water system and a municipal sewer system.

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

(h) For the purposes of this section:

(1) "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.

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

(A) A public hearing;

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

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

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

(4) "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.

§8A-7A-2. **Effective** **date.**

This article shall take effect on January 1, 2026.

NOTE: The purpose of this bill is to prohibit municipalities from adopting certain regulations in relation to accessory dwelling units.

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