

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 659

By Senator Rucker

[Introduced January 29, 2026; 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 §8-40-1, §8-40-2, and §8-40-3, relating to prohibiting municipalities from prohibiting certain restrictions on the regulation of accessory dwelling units.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. ACCESSORY DWELLING UNITS.

§8-40-1. Definitions.

As used in this section:

(a) "Accessory dwelling unit" means a self-contained and independently accessed 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 regulatory requirements;

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

(1) A public hearing;

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

(3) Other discretionary zoning action other than a determination that a site plan conforms
with applicable regulatory requirements:

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

(d)(1) "Regulatory requirements" means the requirements determined by a municipality to
be necessary for approval of plans, permits, or applications under this section.

(2) "Regulatory requirements" includes:

(A) The Arkansas Fire Prevention Code as adopted by the State Fire Marshal;

(B) Any locally adopted ordinances and amendments to the ordinances;

(C) Applicable zoning ordinances and conditions;

(D) Design standards; and

(E) Other state and local laws, rules, and ordinances applicable to the plan, permit, or

21 application in question;

22 (e) "Short-term rental" means an individually or collectively owned single-family house or
23 single-family dwelling unit or a unit or group of units in a condominium, cooperative, timeshare, or
24 owner-occupied residential home that is offered for a fee for 30 days or less; and

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

§8-40-2. Prohibition on policy regulations restricting accessory dwelling units.

1 (a) Except as provided in this section, a municipality shall not adopt a policy, regulation, or
2 ordinance that restricts, prohibits, or otherwise regulates the use of at least one accessory
3 dwelling unit by right on a lot or parcel that contains a single-family dwelling.

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

6 (c) If the accessory dwelling unit is detached from or attached to the single-family dwelling,
7 it shall not be more than 75 percent of the gross floor area of the single-family dwelling or 1,000
8 square feet, whichever is less.

9 (d) A municipality shall not:

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

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

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

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

18 (5) Assess development impact fees on the construction of an accessory dwelling unit in
19 excess of \$250;

(6) Require improvements to public streets or sidewalks as a condition of permitting an accessory dwelling unit, except as necessary to reconstruct or repair a public street or sidewalk 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;

(9)(A) Require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for residential use by a single-family dwelling.

(B)(i) Subdivision (d)(9)(A) of this section does not prohibit restrictive covenants concerning accessory dwelling units entered into between private parties.

(ii) Notwithstanding subdivision (d)(9)(B)(i) of this section, a municipality shall 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; or

(10) Require separate water and sewer from the primary structure.

§8-40-3.

Exemptions.

(a) This section does not prohibit a municipality from regulating short-term rentals.

(b)(1)(A) A municipality may require a fee for reviewing applications to create accessory dwelling units.

(B) The application fee shall not exceed \$250 for each accessory dwelling unit.

(2) Subdivision (b)(1) of this section does not prohibit a municipality from requiring its usual building fees in addition to the application fee.

(c) A policy, regulation, or ordinance in effect on or after January 1, 2027, that applies to an accessory dwelling unit and does not comply with this section is invalid to the extent of its conflict with this section.

- 10 (d) A municipality may require an accessory dwelling unit to have:
11 (1) A will-serve letter from both a municipal water system and a municipal sewer system; or
12 (2) Approval from the Department of Health where a municipal water service or municipal
13 sewer service is not available.
14 (e) This section does not:
15 (1) Supersede applicable regulatory requirements; or
16 (2) Prohibit a municipality from adopting a policy, regulation, or ordinance that is more
17 permissive than the provisions under this section.

NOTE: The purpose of this bill is to prohibit municipalities from prohibiting certain restrictions on the regulation of 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.