



# Consolidated Land Use Board Agenda

October 24, 2024

5:30 PM

City – County Complex, Community Room

Join Zoom Meeting

<https://us02web.zoom.us/j/84833990273?pwd=KugsFyQXmhhFfKaBtELJy7flqJCIN.1>

Meeting ID: 848 3399 0273

Passcode: 653829

Phone: 1 669 900 9128

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1. Roll Call

2. Approval of Minutes

**A. APPROVAL OF SEPTEMBER 11, 2024 MINUTES**

3. Public Comment

*Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)*

4. Planning Items

5. Zoning Items

**A. ZONING TEXT AMENDMENT - UPDATE CHAPTER 30 RELATED TO ACCESSORY DWELLING UNITS (ADUS) AND DUPLEXES AS MANDATED BY 2023 MONTANA LEGISLATIVE ACTIONS. ACTION REQUESTED.**

6. Board Comments

7. Adjournment

To ensure that it is passed on to the voting members, written public comment should be submitted before noon the day of any public meeting. This deadline is set to ensure comments reach City Commission, Boards, Committees, and City Staff timely allowing all parties to review comments prior to the start of any public meeting. Comments received after this deadline are not guaranteed to reach the intended persons before the start of the meeting.



# Consolidated Land Use Board Minutes

September 11, 2024

5:30 PM

City – County Complex, Community Room

## 1. Roll Call (0:16 minutes)

In Attendance: Baily Goodwine, John Kalmon, Becky Moores, Caitlin Chiller, Jesse Wilcox.

Frank O'Connor, Forrest Huisman, and Torrey Lyons were absent.

Staff: Planning Director Jennifer Severson, City Manager Grant Gager.

## 2. Approval of Minutes (0:39 minutes)

### A. APPROVAL OF AUGUST 14, 2024 MINUTES

Goodwine made a motion to approve the August 14, 2024 minutes. Moores seconded the motion. Motion passed 5-0.

## 3. General Public Comment (1:23 minutes)

No General Public Comments.

*Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)*

## 4. Planning Items (2:23 minutes)

### A. RESERVOIR PARK SURVEY – Aleck Gantick with CV Studio presented information about the online survey and planning process for Reservoir Park. He also identified opportunities for public participation. Information Only- NO BOARD ACTION REQUESTED.

5.5-acre parcel

Severson asked if anyone needs more information about the project or has any questions who should they direct them to?

Gantick stated that his email can be accessed via the project/survey website (<https://www.geodesignhub.com/s/l36c>) . . There is also a link to the project on the City's webpage: <https://www.livingstonmontana.org/citymanager/page/community-planning-reservoir-park>

Goodwine questioned if there was a certain reason that this parcel was targeted as opposed to other parcels of land within the city, such as the Washington School property. Gantick stated that there was a previous planning effort for the Reservoir Park parcel that didn't move forward to implementation, so his team wanted to try and tackle the public outreach in a different way this time.

Goodwine asked in the event that Reservoir Park would become a new City Park, is there already a budget set aside for the changes it would require. City Manager Grant Gager stated that budget for renovating Reservoir Park will be included in the Fiscal Year 2026 City budget. The budget process starts in January / February and is presented publically in April. There are Community Contributions and services that will go towards the project. Gantick added that the outcomes of this Park will be easy for the City to run Financial Analysis to develop the Budget for FY 2026.

Chiller asked how much of the 5.5 acres will be taken up by the utility zone that is mapped on the property. Gantick responded that an exact land estimate has not been mapped for the utilities that

will be needed, it will be highly dependent on what the citizens of Livingston would like to see within the park. He estimates around a quarter of an acre will be utilized and off-limits to the public.

Chiller asked if there is any way to ensure that the Park will be matching the needs of the people that are actually going to utilize it. Gantick stated that he has been receiving feedback from people that live in the communities around Reservoir Park, and making sure all voices are heard in this process.

Kalmon asked if there is the ability to view survey responses from other people on the website. Gantick stated that there is no way to view other survey responses on the website, but they will be shared publically at the workshops.

Moore asked about the 'geodesign' platform description. Gantick explained how this type of platform serves as a digital interface to compile survey results.

Moore asked about how utility area that cannot be developed will be addressed. Gantick explained that they buffered the area to ensure no improvements are proposed by the public in that area since it must be reserved solely for the existing city utility infrastructure. Moore asked if utility area will be confirmed through GIS before design process progresses. Gantick said that is included in his scope of work on the project.

Chair Wilcox asked about highlighting connectivity to Reservoir Park. Gantick stated that the connectivity will be addressed more at the public workshops in the future.

**B. CITY PARKS MASTER PLAN – City Staff will present information about the Parks Master Plan process and upcoming opportunities for public participation. Information Only- NO BOARD ACTION REQUESTED.**

City Manager Gager presented information about the upcoming Parks Master Plan process. The Parks Master Plan is a guiding document for the community of Livingston. Most recent plan is from 2011 and city officials believe it is time to update the Parks Master Plan to keep up with the growth of Livingston, and receive insight from Stockwell Engineers. Stockwell will be in town next week – they will be at the Farmer's Market, do a site visits to City Parks, and there will also be three focus groups that come together to assess and survey the parks, in hopes of getting the project into local schools as well. The Parks plan is linked on the City website for review <https://www.livingstonmontana.org/citymanager/page/parks-master-plan> - Gager gave brief overview of the planning process as outlined on the webpage.

Goodwine said she's pleased that the parks plan is being updated to bring park facilities in line with current user needs, and asked if the City could post information about Parks Master Plan to social media. Gager responded that he will post it to the City's Facebook page.

Kalmon asked when Stockwell Engineers Inc was hired to consult on this project and where are they from. Gager stated they've been working on the project for the past month and are based out of South Dakota.

Moore asked for confirmation that this is a plan- or a framework- for how to improve parks and that budget will be based on the plan outcome. Gager agreed and also mentioned that several community members have indicated interest in helping to privately fund park improvements. Moore asked how long the plan will be effective for, once adopted. Gager says a typical master plan lifetime is 20 years.

Gager recognizes that there is a lot of planning activity taking place in the City right now- all are recommendations of the Growth Policy. They are not just going to sit on a shelf- the intent is to implement these plans. Moore reiterated that social media is a great way to get the public engaged into upcoming events and planning processes.

Wilcox lamented the fact that KRPK is no longer around to distribute local information and recommended the City consider utilizing local non-profits newsletters and email groups to distribute information about City events and planning processes. Wilcox also suggested the City try to hire consultants who have worked on previous plans for the City in the future since they have familiarity with the City and community. Gager acknowledged that is preferred when the State procurement statutes allow it, and confirmed the City is making efforts to improve documentation to maintain institutional knowledge of long-time staff. Zoning Items

**C. ZONING CODE UPDATE – City Staff will provide a general overview of the Code Update process, including timeline and opportunities for public participation. Information Only- NO BOARD ACTION REQUESTED.**

Severson presented information about the Zoning Code update for the City which is just beginning. The selected consultant is SCJ Alliance, they are based on the west coast but have a small Montana office. City Staff is working with SCJ to finalize a community engagement and public outreach plan. In lieu of one large Steering Committee, there will be several small focus groups that will look at development industry, housing and transportation, community non-profits, economic development, commercial development, historic preservation, and conservation. The Zoning Code update will come through the Land Use Board for a recommendation before it goes to the City Commission for a first reading. Severson confirmed there will be a lot of advance noticing throughout the update process and during the adoption process and a lot of opportunities for public engagement. The City has made limited revisions to the zoning code in the past couple of years in anticipation of the comprehensive code update now beginning. Severson also confirmed the City will try to ensure adoption process isn't ramping up until after peak tourist season in the summer. Severson showed board how to access our zoning code online – municode link on City website ([https://library.municode.com/mt/livingston/codes/code\\_of\\_ordinances](https://library.municode.com/mt/livingston/codes/code_of_ordinances)). The section of code that is going to be updated- the Zoning Code- is in Chapter 30.

Severson walks the board through the key actions in the scope of work for the code update- that is available on the City website at [https://www.livingstonmontana.org/sites/default/files/fileattachments/city\\_planning\\_board/page/8804/rfp20047\\_zoning\\_code\\_update\\_final.pdf#page=18](https://www.livingstonmontana.org/sites/default/files/fileattachments/city_planning_board/page/8804/rfp20047_zoning_code_update_final.pdf#page=18)

Wilcox requested the LUB get updates throughout the code update process rather than first presenting the updates at the public hearing for adoption at the end of the process. Severson confirmed that the goal is to avoid multiple, lengthy meetings by keeping the LUB and the community informed throughout the code update process.

Chiller said she'd talk to other teachers and students at the school where she works to find out how they'd like to be involved in the update process.

Severson fielded questions about the ADU and duplex updates that are state-mandated that will be coming to the October LUB meeting.

Severson confirmed that Shannon Holmes, the Public Works Director, will start providing project updates to the LUB again- as time permits. However, the updates will be limited to City-sponsored projects and projects that went before LUB review (i.e. within LUB purview).

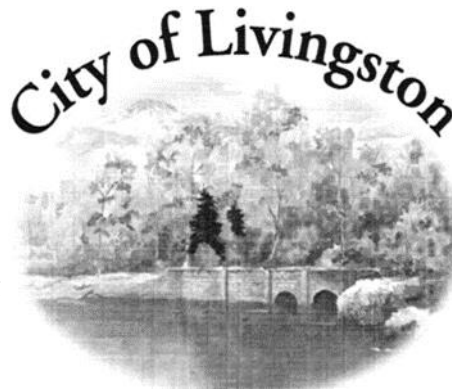
**5. Board Comments**

**6. Adjournment – 7:08 pm**

**City Manager**  
Grant Gager

220 E Park Street  
(406) 823-6000 phone

citymanager@livingstonmontana.org  
www.livingstonmontana.org



*Incorporated 1889*

**Chair**  
Karrie Kahle

**Vice Chair**  
Melissa Nootz

**Commissioners**  
Quentin Schwarz  
Torrey Lyons  
James Willich

October 24, 2024

**CONSOLIDATED LAND USE BOARD STAFF REPORT**

**CHAPTER 30 ZONING TEXT AMENDMENT – STATE MANDATED CHANGED  
RELATED TO ADUs AND DUPLEXES**

**Background**

The 2023 Montana Legislature passed legislation related to municipal zoning regulations for Accessory Dwelling Units (ADUs) and Duplexes. The laws were initially slated to take effect on January 1, 2024; however, a preliminary injunction was granted to stay the implementation pending a lawsuit. The injunction was lifted in September 2024 and the City of Livingston must now update its Zoning Ordinance to comply with the new state laws.

**Analysis**

Below are bills passed by the 2023 State Legislature that necessitate this zoning code update and a brief summary of the impacts to the City’s existing zoning code:

SB 323: Provides that a duplex (two-family) housing unit is allowed on each lot where a single-family use is permitted. Currently, only Low Density Residential (RI) and Residential Mobile Home (RMO) districts allow single family homes but do not allow duplexes. The mandated code updates will allow duplex development in these districts.

SB 528: Provides that an Accessory Dwelling Unit (ADU) is allowed on each lot where a single-family use is permitted, which is already allowed under the current zoning code. Based on feedback from the City Commission at its November 21, 2023 meeting, staff proposes that the City’s zoning code be revised to limit ADUs to single-family uses only. ADUs will not apply to two (2) family and multi-family dwellings. This bill also establishes restrictions against regulating parking and design aesthetics, assessing impact fees, and maximum floor areas for ADUs.

The sections in the Livingston Zoning Ordinance that will be affected by this update include Table 30.40 List of Uses, Table 30.41 Residential Density requirements (bottom footer notes),

Sec 30.43 Accessory Dwellings, and Sec 30.51 Off Street Parking and Loading Zones (required parking table).

A version of the applicable Zoning Code is attached showing language removed (red strikethrough) and proposed code language (blue text) (Attachment 1).

**Criteria and Guidelines for Zoning Regulations (MCA 76-2-304):**

*(1) Zoning regulations must be:*

*(a) made in accordance with a growth policy:*

**Staff Comments:**

- The majority of the proposed amendments are mandated by the State. Staff has included language that ADUs do not apply to Two-Family (Duplex) or Multi-Family (3 or more) dwellings so that any increase in density resulting from additional ADUs is consistent with current zoning allowances. Staff finds the amended code language does not conflict with the Growth Policy or the manner in which the City's Zoning Ordinance supports the goals and strategies identified in the Growth Policy.
- The proposed text amendment supports the following recommendations of the 2021 Growth Policy:

*Objective 5.1.4:* Promote a mix of housing within neighborhoods that supports a variety of household income levels, household age groups, and housing types.

*Strategy 3.1.1.2:* Evaluate and amend the zoning ordinance to allow for higher densities and wider land uses in areas that can support such development.

*Strategy 3.1.1.8:* Reduce urban sprawl through compact development consistent with the Future Land Use Map of this Growth Policy.

*Strategy 5.1.1.2:* Consider implementing the recommendations of the Housing Action Plan (HAP).

*HAP Recommendation #9:* General Zoning Reform & Flexible Development Standards- removing barriers to building a variety of housing choices, which allows for homes of all shapes and sizes for people of all incomes.

*(b) designed to:*

*(i) secure safety from fire and other dangers;*

**Staff Comments:**

- Staff does not anticipate the proposed amendments will affect the threat of fire or other danger on the public.

*(ii) promote public health, public safety, and the general welfare; and*

Staff Comments:

- The proposed amendments are not anticipated to negatively impact public health, safety or welfare as they will result in minimal density increase beyond what is allowed under the current zoning code.

*(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.*

Staff Comments:

- It is not anticipated the proposed text amendments will impact the adequate provision of transportation, water, sewerage, schools, or parks.

*(2) In the adoption of zoning regulations, the municipal governing body shall consider:*

*(a) reasonable provision of adequate light and air;*

Staff Comments:

- It is not anticipated the proposed text amendments will impact the reasonable provision of adequate light or air. No changes are proposed to building setbacks or height limits.

*(b) the effect on motorized and nonmotorized transportation systems;*

Staff Comments:

- Although the proposed code update will eliminate off-street parking requirements for ADUs, it is not anticipated the proposed changes will significantly impact motorized and nonmotorized transportation systems.

*(c) promotion of compatible urban growth;*

Staff Comments:

- Staff does not find the proposed amendments to be incompatible with the City's existing urban growth pattern. No changes are proposed to existing building setbacks or height allowances which will help to preserve existing community character.

*(d) the character of the district and its peculiar suitability for particular uses;*

Staff Comments:

- It is not anticipated that the proposed text amendments will adversely impact the character of any zoning district nor its suitability for particular uses.

*(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.*

Staff Comments:

- It is anticipated that the proposed text amendments will encourage the most appropriate use of land in the City of Livingston, while not adversely impacting the building values in the City.

**Staff Recommendation**

Staff does not anticipate the proposed text amendments will alter the basic intent of the City's Zoning Ordinance. Additionally, the proposed amendments comply with the requirements of State Statute and support the goals, objectives and strategies identified in the Growth Policy. Therefore, Staff recommends the Consolidated Land Use Board, acting in its capacity as the Zoning Commission, recommend the City Commission adopt the Zoning Text Amendment as proposed.

**Attachments**

- A. Redlined Draft Ordinance 3056
- B. Copy of SB 528 – Accessory Dwelling Units (ADUs)
- C. Copy of SB 323 - Duplexes



**ORDINANCE NO. 3056**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30, ZONING, OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING SECTION 30.40, SECTION 30.41, SECTION 30.43 AND SECTION 30.51 AS THEY RELATE TO ACCESSORY DWELLING UNITS AND TWO (2) FAMILY DWELLINGS.**

**Preamble.**

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

\*\*\*\*\*

**WHEREAS**, the State of Montana has adopted legislation setting forth specific requirements that the City must follow in its administration of accessory dwelling units and duplex housing; and

**WHEREAS**, the City's zoning code does not currently comply with these State mandated requirements and must be made to comply with State law.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Livingston, Montana, that Sections 30.40, 30.41, 30.43, and 30.51 of the Livingston Municipal Code be and the same are hereby amended with additions underlined and deletions struck through, as follows:

**Sec. 30.40. List of uses.**

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

**Table 30.40**  
**List of Uses**

A = Allowed    S = Special Exception Permit Required    N = Not Allowed												
	R-I	R-II	RII-MH	R-III	RMO	NC <sup>1</sup>	MU	CBD <sup>2</sup>	HC	LI	I	P
One (1) Family Dwellings <sup>±</sup>	A	A	A	A	A	A	A	<del>A</del> <u>N</u>	A	N	N	N
Two (2) Family Dwellings	<del>N</del> <u>A</u>	A	A	A	<del>N</del> <u>A</u>	A	A	<del>A</del> <u>N</u>	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	<u>A</u>	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	N	A	<del>N</del> <u>A</u> *	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	A	N	N	N
Tiny Homes	A	A	A	A	A	N	A	N	A	N	N	N
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A
Schools, Trade	N	N	N	N	N	S	S	A	A	A	A	N
Hospitals/ Institutions	N	N	N	A	N	S	S	N	S	A	N	S
Medical/ Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center <sup>3</sup>	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N

Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	N	A	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	S	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N
Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N

Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Microdistillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N
Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S
Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations <sup>4</sup>	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N

1. NC- Any number of residential units may be established within a building that also contains a commercial use.
2. CBD—Any number of apartment-residential units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High-Density Multifamily Residential."

\*New ADUs are allowed in the CBD only if a single family residential use already exists on the parcel.

3. Adult Foster Care Center.

- a. No more than four (4) residents;
- b. Staff member must be on board twenty-four (24) hours a day.

4. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.

\*This includes manufactured homes as defined by Ordinance 1813.

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. 2046, § 1(Exh. A), 9/17/13; Ord. No. 2090, § 1, 10/6/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3017, § 1, 10/5/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3023, § 1, 1/4/22)

**Sec. 30.41. Residential density requirements.**

Residential density requirements are set out in Table 30.41.

Table 30.41							
Residential Density Requirements							
Zoning Classification District							
	Low Density (R-I)	Med. Density (R-II)	Med. Density (R-II)(MH)	High Density (R-III)	Mobile Homes (RMO)	Mixed Use (MU)	Public (P)
Min. Lot Area per Dwelling Unit in Square Feet	7,000	3,500	3,500	1,150	6,000>	875	N/A
Min. Setback Requirements							
Front Street	25'	25'	25'	5'	20'	0	20'
Side	15'	5' or B) or C)	5' or B) or C)	0 or C)	10' or C)	0 or C)	5' or C)
Rear	5'	5'	5'	0	5'	0	15'
Side Street	15'	10'	10'	0	10'	0	10'
Max. Height for all Bldgs.	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	50'	15'	60'	27'
Off-Street Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

1. In all ~~residential~~ zoning districts in which accessory dwellings are permitted, the number of accessory dwellings allowed is equivalent to the number of one (1) family dwelling units allowed present on the lot ~~as show in Table 30.41 above. The total number of dwelling units allowed on any lot is the allowed density of the lot in Table 30.41 above plus the equivalent number of accessory dwellings. E.g.: a 7,000-square-foot lot in the R-II zoning district allows two (2) dwelling units and two (2) accessory dwellings. Accessory dwelling units shall not apply to two (2) family and multi-family dwellings.~~

A) Applicable to Mobile Home Subdivisions only.

B) Side setback not required for approved townhouse development.

C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97; Ord. No. 2090 , § 1, 11/5/20; Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3018 , § 1, 10/5/21; Ord. No. 3023 , § 1, 1/4/22)

### Sec. 30.43 Accessory dwellings.

- A. Accessory dwellings are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, ~~parking~~, and building design standards.
- B. Detached accessory dwellings shall be located to the rear of the primary dwelling on the property.
- C. Accessory dwellings shall not exceed ~~eight hundred (800)~~ 75% of the gross floor area of the single family dwelling on the lot or 1000 square feet of gross floor area, whichever is less. Accessory dwellings must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed the above listed maximum gross floor area for an accessory dwelling. This size limitation applies to both detached Accessory Dwelling Units and Accessory Dwelling Units constructed as additions to One (1) Family Dwellings. Accessory Dwelling Units established wholly within the current footprint of an existing One (1) Family Dwelling are not subject to this size limitation.
- ~~D. All detached accessory dwellings shall maintain a (6) six-foot separation, measured from the external walls of the dwelling unit to all other buildings on site.~~
- E. Accessory dwellings shall be on the same ~~lot~~ parcel as the primary dwelling.
- F. ~~Accessory dwellings shall not be subdivided or sold separately from the primary dwelling on the lot.~~ If an accessory dwelling is subdivided from the primary dwelling unit, the accessory dwelling is

no longer an accessory dwelling and must meet all density requirements listed in Table 30.41 and Table 30.51. ~~Prior to use of the accessory dwelling, the property owner must record a deed restriction provided by the City Attorney's Office stating that the accessory dwelling shall not be sold separately from the primary dwelling, and provide a copy of the recorded deed restriction to the Department of Building and Planning prior to the issuance of a Certificate of Occupancy.~~

- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

(Ord. No. 2090, § 1, 11/5/20)

### Sec. 30.51. Off street parking and loading zones.

- A. Parking area design. Parking spaces and drive aisles for all commercial and industrial users shall meet the dimensions listed in Table 30.51 below.

Parking Angle	Parking Stall Length	Parking Stall Width	Drive Aisle Width One-Way/Two-Way
30°	18'6"	9'	13'/21'
45°	18'6"	9'	13'/21'
60°	18'6"	9'	16'/21'
75°	18'6"	9'	16'/21'
90°	18'6"	9'	—/24'

1. Parking lots for all multi-family residential, commercial, industrial and mixed-use development shall be paved. Gravel parking areas are not permitted for any use other than single-family residential. Pervious pavers and green paving systems are encouraged.
  2. Parking areas are encouraged to utilize as little land area as possible to meet the minimum parking standards. Overparking, or adding more parking spaces and area than required by the minimum standards, is highly discouraged.
  3. To minimize vehicular conflicts on roadways and vehicular crossings of the sidewalk, the preferred access to parking areas for all uses are alleyways. Where alleyways are not an available or feasible option for parking access, uses are encouraged to utilize shared access points. Parking areas should be accessed from side streets rather than major roadways throughout the City.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:

1. For one (1) family, ~~and~~ two (2) family, ~~and accessory~~ dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
  2. For ~~multiple multifamily~~ dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
  3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
  4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
  5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear or side of the primary structure on the lot.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.
- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the Zoning Coordinator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Zoning Coordinator or their authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
1. Up to fifty (50) percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
  2. Up to one hundred (100) percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature.
  3. In mixed-use developments, up to fifty (50) percent of the parking facilities required for the residential use may be supplied by the related day time commercial or light industrial uses. The commercial or light industrial use must be closed between 6:00 p.m. and 8:00 a.m. to be considered for joint use parking.
- H. Conditions Required for Joint Use. The building for which application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.



The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment Residential dwelling units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Radio Stations	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.

Residential, single-family.	2 per dwelling unit.
Residential, duplex or multi-family.	1 per dwelling unit.
Accessory dwelling unit	<del>1 per dwelling unit</del> <u>None.</u>
Boarding houses and similar uses.	One per dwelling unit or lodging unit.
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Eating and drinking establishments.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Large-scale Retail	One per 800 sq. ft. of gross floor area.
Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court

Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
* In calculating minimum required parking, gross floor area shall not include car ports and garage areas.	

- K. Up to twenty (20) percent of the parking spaces required in the Table of Minimum Standards may be replaced by enlarged landscaped areas, stormwater swales, or social areas. Enlarged landscaped, stormwater, or social areas must be equivalent or greater in total square footage to the parking spaces being replaced.
- L. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- M. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three (3) feet from the property line and shall be properly maintained.
- N. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- O. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
- P. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
- Q. Standards for Commercial and Industrial Uses.
1. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. Loading areas shall be located to the rear of the building and shielded from

- view from the neighboring properties and rights-of way. Loading areas shall not extend into the public right-of-way.
2. Parking areas shall be located to the side and rear of the primary building on site.
  3. Parking areas shall have engineered stormwater retention and/or detention systems consistent with the City of Livingston Design Standards and Specifications Policy to prevent runoff into adjacent properties and rights-of-way. Collected stormwater is highly encouraged to be reused to irrigate on-site landscaping.
- R. Bicycle Parking.
1. Bicycle Parking Standards and Design.
    - a. In all multi-family residential, commercial, industrial and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where there are five (5) or more bicycle spaces required, twenty (20) percent of those spaces shall be for bicycles with trailers.
    - b. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
    - c. The preferred bike rack styles are inverted U or post and loop racks.
  2. Bicycle Parking Location.
    - a. In all commercial, industrial and mixed-use development, bicycle racks designed to allow bicycles to be securely locked to them must be provided as close as possible to the main entrance of the building, and must be in a location visible from the public right-of-way.
    - b. Buildings with multiple entrances are highly encouraged to place bicycle racks at each entrance.
    - c. Multi-family residential developments are encouraged to provide secure and sheltered bicycle parking.
- S. Pedestrian Walkways. Multi-family residential, commercial, industrial and mixed-use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on-site to the following: adjacent public sidewalks, on-site parking, other on-site primary use structures, bicycle parking areas, and common outdoor use areas.
- T. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
1. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an

informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.

2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
3. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.
4. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.

U. Landscaping Requirements for the Interior of Parking Areas.

1. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) deciduous shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
2. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan. The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking lot area. When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island shall contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.

( Ord. No. 2090 , § 1, 11/5/20; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3010 , § 1, 7/20/21; Ord. No. 3017 , § 1, 10/5/21; Ord. No. 3025 , § 1, 10/21/21; Ord. No. 3023 , § 1, 1/4/22)

## SECTION 2

### **Statutory Interpretation and Repealer:**

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

**SECTION 3**

**Severability:**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

**SECTION 4**

**Savings Provision:**

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

**SECTION 5**

**Effective date:**

This ordinance will become effective 30 days after second and final adoption.

\*\*\*\*\*

**PASSED** by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the \_\_\_\_ day of November, 2024.

\_\_\_\_\_  
**KARRIE KAHLE, CHAIR**

**ATTEST:**

\_\_\_\_\_

**Emily Hutchinson**  
City Clerk

\*\*\*\*\*

**PASSED, ADOPTED AND APPROVED**, by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the \_\_\_\_\_ day of December, 2024.

**ATTEST:**

**APPROVED TO AS FORM:**

\_\_\_\_\_  
**EMILY HUTCHINSON**  
City Clerk

\_\_\_\_\_  
**JON HESSE**  
City Attorney

DRAFT



AN ACT 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 PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1. Accessory dwelling units -- regulations -- restrictions.** (1) (a) 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.

(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 municipality 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;



- (e) assess impact fees on the construction of an accessory dwelling unit;
  - (f) 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;
  - (g) 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;
  - (h) impose more onerous development standards on an accessory dwelling unit beyond those set forth in this section; or
  - (i) require a restrictive covenant concerning an accessory dwelling unit on a parcel zoned for residential use by a single-family dwelling. This subsection (2)(i) may not be construed to prohibit restrictive covenants concerning accessory dwelling units entered into 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.
- (3) Nothing in this section prohibits a municipality from regulating short-term rentals as defined in 15-68-101.
- (4) 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.
- (5) A municipality that has not adopted or amended regulations pursuant to this section by January 1, 2024, 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, 2024, that apply to accessory dwelling units and do not comply with this section are void.
- (6) The provisions of this section do not supersede applicable building codes, fire codes, or public health and safety regulations adopted pursuant to Title 50, chapter 2.
- (7) A municipality may require an accessory dwelling unit to have a will-serve letter from both a municipal water system and a municipal sewer system.
- (8) Nothing in this section prohibits a municipality from adopting regulations that are more

permissive than the accessory dwelling unit provisions provided in this section.

(9) For the purposes of this section:

(a) "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 adopted pursuant to Title 50, chapter 2.

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

(i) a public hearing;

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

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

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

(d) "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.

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

**Section 3. Effective date.** [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,  
SB 528, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

SENATE BILL NO. 528  
INTRODUCED BY G. HERTZ

AN ACT 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 PROVIDING A DELAYED EFFECTIVE DATE.



AN ACT GENERALLY REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN CITIES TO ALLOW THE USE OF DUPLEX HOUSING IN ZONING REGULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 76-2-304, MCA, is amended to read:

**"76-2-304. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
  - (i) secure safety from fire and other dangers;
  - (ii) promote public health, public safety, and the general welfare; and
  - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) promotion of compatible urban growth;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

the jurisdictional area.

(3) In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are

applicable to single-family residences.

(4) As used in this section, the following definitions apply:

(a) "Duplex housing" means a parcel or lot with two dwelling units that are designed for residential occupancy by not more than two family units living independently from each other.

(b) "Family unit" means:

(i) a single person living or residing in a dwelling or place of residence; or

(ii) two or more persons living together or residing in the same dwelling or place of residence.

(c) "Single-family residence" has the meaning provided in 70-24-103."

**Section 2.** Section 76-2-309, MCA, is amended to read:

**"76-2-309. Conflict with other laws.** (1) Wherever the regulations made under authority of this part require a greater width or size of yards, courts, or other open spaces; require a lower height of building or less number of stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this part ~~shall~~must govern.

(2) Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces; require a lower height of building or a less number of stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards than are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3), the provisions of ~~such~~the statute or local ordinance or regulation ~~shall~~must govern."

**Section 3. Effective date.** [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,  
SB 323, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

SENATE BILL NO. 323

INTRODUCED BY J. TREBAS, C. KNUDSEN, C. HINKLE, M. HOPKINS, K. BOGNER, D. ZOLNIKOV

AN ACT GENERALLY REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN CITIES TO ALLOW THE USE OF DUPLEX HOUSING IN ZONING REGULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.