

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1166

Introduced by Lowe, 37.

Read first time January 11, 2024

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to zoning; to define terms; to require and
- 2 restrict zoning regulations by municipalities relating to accessory
- 3 dwelling units as prescribed; and to provide for a fee.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For the purposes of this section:

2 (a) Accessory dwelling unit means a self-contained living unit on
3 the same parcel as a single-family dwelling of greater square footage
4 that includes its own cooking, sleeping, and sanitation facilities and
5 complies with or is otherwise exempt from any applicable building code,
6 fire code, and public health and safety regulations adopted by a
7 municipality;

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

9 (i) A public hearing;

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

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

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

16 (d) Municipality means an incorporated city or village that
17 exercises zoning powers; and

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

21 (2)(a) A municipality shall adopt zoning regulations under this
22 section that allow a minimum of one accessory dwelling unit by right on a
23 lot or parcel that contains a single-family dwelling.

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

26 (c) If the accessory dwelling unit is detached from or attached to
27 the single-family dwelling, the unit may not be more than seventy-five
28 percent of the gross floor area of the single-family dwelling or one
29 thousand square feet, whichever is less.

30 (3) A municipality shall not:

31 (a) Require that a lot or parcel have additional parking to

1 accommodate an accessory dwelling unit or require fees in lieu of
2 additional parking;

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

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

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

10 (e) Assess impact fees on the construction of an accessory dwelling
11 unit;

12 (f) Require improvements to public streets as a condition of
13 permitting an accessory dwelling unit except as necessary to reconstruct
14 or repair a public street that is disturbed as a result of the
15 construction of the accessory dwelling unit;

16 (g) Set maximum building heights, minimum setback requirements,
17 minimum lot sizes, maximum lot coverages, or minimum building frontages
18 for accessory dwelling units that are more restrictive than those for the
19 single-family dwelling on the lot;

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

22 (i) Require a restrictive covenant concerning an accessory dwelling
23 unit on a parcel zoned for residential use by a single-family dwelling.
24 This subdivision (i) shall not be construed to prohibit restrictive
25 covenants concerning accessory dwelling units entered into between
26 private parties, but the municipality shall not condition a permit,
27 license, or use of an accessory dwelling unit on the adoption or
28 implementation of a restrictive covenant entered into between private
29 parties.

30 (4) Nothing in this section prohibits a municipality from regulating
31 short-term rentals as defined in section 18-1758.

1 (5) A municipality may require a fee for reviewing applications to
2 create accessory dwelling units. The one-time application fee shall not
3 exceed two hundred fifty dollars for each accessory dwelling unit.
4 Nothing in this section prohibits a municipality from requiring its usual
5 building fees in addition to the application fee.

6 (6) A municipality that has not adopted or amended zoning
7 regulations pursuant to this section by January 1, 2025, shall review and
8 permit accessory dwelling units in accordance with the requirements of
9 this section until regulations are adopted or amended. Regulations in
10 effect on or after January 1, 2025, that apply to accessory dwelling
11 units and do not comply with this section are void.

12 (7) This section does not supersede any applicable building code,
13 fire code, or public health and safety regulation adopted by a
14 municipality except as restricted by this section.

15 (8) A municipality may require an accessory dwelling unit to have a
16 letter from both a municipal water system and a municipal sewer system
17 affirming provision of water and sewer service.

18 (9) Nothing in this section prohibits a municipality from adopting
19 regulations that are more permissive than the provisions regarding
20 accessory dwelling units provided in this section.