

ORDINANCE No. 277

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE AMENDING SECTION 17.30 OF THE WEST YELLOWSTONE TOWN CODE

WHEREAS, on September 3, 2024, after two public hearings on the First Reading and one public meeting on the Second Reading, the Town Council of the Town of West Yellowstone adopted a Revised Zoning Code for the Town of West Yellowstone; and

WHEREAS, Section 17.30 of the Revised Zoning Code made provision for Accessory Dwelling Unit Structures; and

WHEREAS, Section 17.30 contained two sentences that were not in accord with Section 76-2-345, MCA as that section of the Montana Code Annotated was enjoined on December 30, 2023, as part of a litigation over the statute in Cause No. DV 23-1248 in the 18th Judicial District Court for Gallatin County, Montana; and

WHEREAS, on September 3, 2024, the Montana Supreme Court issued an order reversing the injunction that precluded Section 76-2-345, MCA from going into effect; and

WHEREAS, on September 3, 2024, the Town Attorney informed the Town Council that it could proceed with adoption of the Revised Zoning Code and that Section 17.30 could be amended in the future and further that even without an amendment to the zone code, the Town would still be obligated to comply with Section 76-2-345, MCA; and

WHEREAS, the Town Council finds that the changes to Section 17.30 set out in Exhibit 1 attached meet the requirements of Section 76-2-345, MCA; and

WHEREAS, on September 17, 2024, the Town Council held a duly noticed public meeting on the first reading of the Ordinance amending Section 17.30 of the West Yellowstone Municipal Code at which it received public testimony either in favor of or against the proposed amendments.

WHEREAS, on October 1, 2024, the Town Council of the Town of West Yellowstone held a duly noticed public hearing on the second reading of this Ordinance at which it received public testimony in favor of or against the amendments to Section 17.30 of the West Yellowstone Municipal Code; and

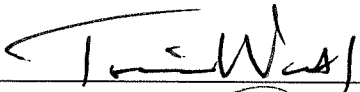
NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of West Yellowstone that the amendments to Section 17.30 of the West Yellowstone Municipal Code as set out on **Exhibit 1**, attached hereto, are hereby adopted and amend Section 17.30 accordingly.

REPEALER: All ordinances and parts of ordinances in conflict with provisions of this ordinance, except as provided above, are hereby amended or repealed.

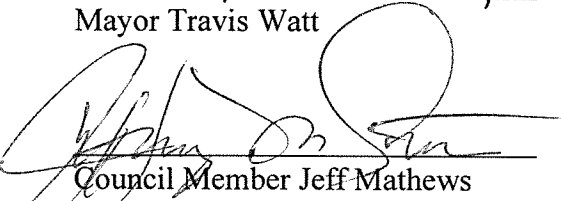
EFFECTIVE DATE: This ordinance shall be in full force and effect thirty (30) days after final adoption by the Town Council of the Town of West Yellowstone.

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


PASSED BY the Town Council and approved by the Mayor of the Town of West Yellowstone, Montana, this 1 day of October, 2024.



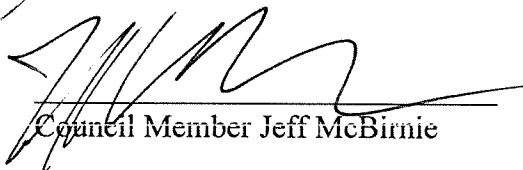
Mayor Travis Watt



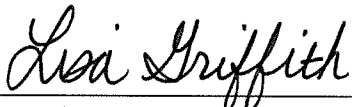
Council Member Jeff Mathews



Council Member Brian Benike

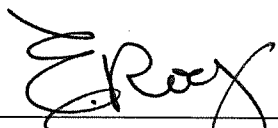


Council Member Jeff McBirnie



Council Member Lisa Griffith

ATTEST:



Town Clerk Elizabeth Roos



EXHIBIT 1

Chapter 17.30: ACCESSORY DWELLING UNIT STRUCTURES

Sections:

- 17.30.010 Intent
- 17.30.020 Definitions
- 17.30.030 Regulations pertaining to accessory dwelling units
- 17.30.040 Requirements for an accessory dwelling unit
- 17.30.050 Dimensional standards

17.30.010 Intent

The intent of this chapter is to provide for flexibility in housing in residential districts.

17.30.020 Definitions

For the purposes of this section:

- A. "Accessory dwelling unit" means a self-contained living unit on the same parcel as a single-unit 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.
- 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 zoning regulations;
- C. "Gross floor area" means the interior habitable area of a single-unit dwelling or an accessory dwelling unit;
- D. "Single-unit 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.

17.30.030 Regulations pertaining to accessory dwelling units

- A. A minimum of one (1) accessory dwelling unit is allowed by right on a lot or parcel that contains a single-unit dwelling per the definition in Chapter 17.30
- B. An accessory dwelling unit may be attached, detached, or internal to the single-unit dwelling on a lot or parcel.

- C. If the accessory dwelling unit is detached from or attached to the single-unit dwelling, it may not be more than 75% of the gross floor area of the single-unit dwelling or one thousand square feet (1,000 sq. ft.), whichever is less.
- D. Accessory dwelling units shall not be used as a short-term rental nor timeshare per the definitions in Chapter 17.04 if located in the residential districts.

17.30.040 Requirements for an accessory dwelling unit

The Town of West Yellowstone shall only permit an accessory dwelling unit if:

- A. The accessory dwelling unit has received a will-serve letter from both a municipal water system and a municipal sewer system.
- B. The proposed accessory dwelling unit complies with all applicable local, state, federal, fire, electrical, plumbing, and building codes.
- C. Submission requirements for an accessory dwelling unit shall be:
 - 1. Applicable fee
 - 2. Building plans and elevations
 - 3. Scaled site plan showing existing features including trees and building
 - 4. Scaled site plan showing proposed location of accessory dwelling unit, off-street parking if providing, and access for the accessory dwelling unit

There are no requirements:

- A. That an accessory dwelling unit match the exterior design, roof pitch, or finishing materials of the single-unit dwelling;
- B. That the single-unit dwelling or the accessory dwelling unit be occupied by the owner;
- C. That any familial, marital, or employment relationship exists between the occupants of the single-unit dwelling and the occupants of the accessory dwelling unit;
- D. That the applicant provide any improvements to public streets as a condition of permitting an accessory dwelling unit, except as necessary to reconstruct or repair a public infrastructure that is disturbed during the construction of the accessory dwelling unit;

17.30.050 Dimensional standards

The dimensional requirements (setbacks, height, lot coverage) for accessory residential units shall be the same as the district in which the unit is placed.