

Tiny Homes: A Discussion of Their Legal Implications

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Introduction

From TV shows and documentaries, to the multitude of websites and how-to guides, it is clear that tiny homes have made an incredible impact. But what makes tiny homes so special, and why would anyone want to live in one if they didn't have to? Tiny home advocates tend to put great emphasis on the minimalism of tiny homes, and indeed they do require minimal materials to build and minimal space to construct. The benefits attributed to tiny homes however are anything but minimal. The key to unlocking the benefits, while curtailing concerns, requires a detailed ordinance, as well as a detailed understanding of the issues surrounding tiny homes.

The acceptance of tiny homes has one small hurdle to cross, they are illegal. Tiny homes cannot legally be constructed over much of the country¹. Primarily they are restricted because of minimum size requirements instituted by zoning ordinances but construction requirements also tend to disallow tiny homes. This becomes a problem when one considers the increasing demand for tiny homes. Without a proper ordinance allowing for tiny homes, those interested in owning or renting them are unable to reap the substantial benefits associated with tiny homes, and which will be detailed later in this narrative.

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<https://nyseconomicssociation.org/content/proceedings/2016/2016%20NYSEA%20Proceedings%20Vol%209A.pdf#page=92>

The attached ordinance will provide for tiny home use by exempting them from the various regulations which prohibit them, and it will also set out substitute regulations which will prevent the problems linked to tiny homes from occurring. The ordinance will only allow for fixed tiny homes and it will only allow for tiny homes in two specific settings. This will ease the burden on regulators while allowing for the maximum opportunity for those interested in “living tiny.”

The ordinance will begin with general provisions, stating the purpose and including required sections. It will then detail definitions and general requirements of tiny homes. Specific regulations of Accessory Dwelling Units and tiny homes in communities will follow. The final section will detail the requirements for tiny home communities.

The paper will focus on the following points: 1) presenting a general background of tiny homes, their structures, and demographics of users, 2) reviewing the problems associated with tiny homes and why they are not more generally accepted, 3) considering the benefits associated with tiny homes, 4) analysis of how other jurisdictions have dealt with tiny homes, 5) examining the keys to an effective ordinance to regulate tiny homes.

I. General Background

Consolidated living, in a form more in line with nature, is not a new concept. Thoreau and his Walden Pond, though oft cited by tiny home lovers, was not the first or only advocate of a simpler way of living². The modern tiny home movement certainly has roots in this ideology, but it has expanded and blossomed into something much larger. As the tiny home movement has expanded, so too have the number of tiny home designs,

² The Surprising Origins of the Tiny House Phenomenon, <https://www.curbed.com/2016/7/13/12162832/tiny-house-history-hermits>

users, and uses. This makes even a definition of tiny homes difficult. To aid in this task, a background of tiny homes has been set forth, along with information about variations in structure, uses and demographics.

A. History of the Tiny Home Movement

While many have advocated a need to live simply, it was not until houses started getting big that there became a movement to make them small again. In the United States, this started happening in the 1970's³. The movement didn't really start to gain steam however until the late 1990's and the release of Sarah Susanka's 1998 book *The Not So Big House*⁴, the success of which comes from its innovative descriptions of how tiny is achievable. The early 2000's saw an explosion in uses for tiny homes and the financial crisis of 2008 has been the biggest boon to tiny homes to date⁵.

There are a multitude of reasons that interest in tiny homes has accelerated since 2000. Greater technology has helped downsize the necessities of life, allowing smaller living to be an easier transition. Examples include smaller appliances, higher performing materials such as insulation, and heating and cooling devices. Natural disasters such as hurricane Katrina, and the need for affordable temporary housing which follow, have been a golden opportunity for tiny home makers⁶. Rising rents around the country have made people look to unconventional housing to decrease their cost of living⁷. Baby boomers have finally reached retirement age and, reluctant to move to nursing homes, have found some

³ ID.

⁴ ID.

⁵ ID.

⁶ ARTICLE: SAVING THE AMERICAN DREAM: THE LEGALIZATION OF THE TINY HOUSE MOVEMENT, 54 U. Louisville L. Rev. 357

⁷What Is The Tiny House Movement?, <http://thetinylife.com/what-is-the-tiny-house-movement/>

forms of tiny homes to be an appealing alternative⁸. The sustainability movement across America has also had an impact on the tiny home market, because they require fewer materials to create and they take far fewer resources to maintain⁹. Tiny homes have even started to become a novel way of helping with homelessness across America¹⁰.

B. Variations in Structure.

Tiny homes, while wildly varying in style, can be easily put into two categories, fixed tiny homes and tiny homes on wheels, (THOW's)¹¹. Tiny homes on wheels are those that are built on a trailer chassis and are constructed to an RV code¹². Fixed tiny homes are affixed to a foundation and typically need some sort of variance in order to be occupied¹³.

THOW's tend to be the smallest of the two categories. The practical reason for this is mobility. If a unit is larger than 8 feet wide it needs special permitting to be able to tow it. Because of this restriction many units are around 100 square feet, though they can be made as large as 250 square feet, and still be towable without special permitting¹⁴. Units made larger are not really intended to be moved, but rather they allow a unit to slide through a loophole in most laws, typically ordinances, which allows for RV's to be "temporarily" lived

⁸ Serene Senescence. modular aging in place in Fargo, North Dakota, Kristin M. Clarksean, file:///C:/Users/tyler/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/clarksean_book.pdf

⁹What Is The Tiny House Movement?, <http://thetinyhouse.com/what-is-the-tiny-house-movement/>

¹⁰ Finding Space. Assessing how planning responds to tiny houses for homeless population, <http://tram.mcgill.ca/Teaching/srp/documents/LauraF.pdf>

¹¹ The Surprising Origins of the Tiny House Phenomenon, <https://www.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations>

¹²Can Modular Construction Explode the Tiny Home Movement?, <https://expressmodular.com/can-modular-construction-explode-tiny-home-movement/>

¹³ ARTICLE: SAVING THE AMERICAN DREAM: THE LEGALIZATION OF THE TINY HOUSE MOVEMENT, 54 U. Louisville L. Rev. 357

¹⁴ Overcoming the Barriers to Micro-Housing, Emily Brown, https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/19948/Brown_final_project_2016.pdf?sequence=4&isAllowed=y

in¹⁵. An estimated 63% of tiny homes are mobile, with an overwhelming majority located in RV parks, tiny home communities, or another person's yard¹⁶.

Fixed tiny homes are merely houses in miniature. Approximately 37% of tiny home users live in fixed units, though this may be attributed to higher difficulty in residing in them legally¹⁷. Also notable is the fact that a clear majority of fixed tiny home residents live on their own land¹⁸. Fixed tiny homes are not constrained by the need to be able to move, so they typically fall in the 250-400 square foot range, with not insubstantial numbers falling outside this standard range¹⁹.

C. Variations in Uses.

Those that choose to live tiny typically have some motivating factor in choosing a tiny home over something more traditional. These factors often have a financial component, but that is seldom the sole reason. There also tends to be substantial variation among age ranges²⁰.

The mobility of tiny homes is an appealing feature for some people. With some small models able to be towed by a simple pickup truck, the ability to relocate simply, and for much less than some RVs, is unparalleled²¹. Those considered "free spirits" are among those that take advantage of this use, though they are not the only ones. There are many

¹⁵ Can Modular Construction Explode the Tiny Home Movement?, <https://expressmodular.com/can-modular-construction-explode-tiny-home-movement/>

¹⁶ Tiny House Demographics, 2015, <http://americantinyhouseassociation.org/tinydemographics.html>

¹⁷ ID

¹⁸ ID

¹⁹ Overcoming the Barriers to Micro-Housing, Emily Brown, https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/19948/Brown_final_project_2016.pdf?sequence=4&isAllowed=y

²⁰ ID

²¹ <https://www.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations>

people who must frequently relocate because of work, and because of this, are precluded from buying a traditional home because they would have to sell it before any equity could accrue.

Tiny homes are ideal as affordable housing. They can suit new home owners that cannot afford traditional homes, but are disheartened by the inflated rental market²². They are also ideal for those that would be otherwise homeless²³. Several studies have been done which prove tiny homes can be an effective way to house homeless populations as well as give them the boost that they need to overcome their status²⁴.

Tiny homes are also utilized as accessory dwelling units²⁵. Accessory dwelling units, or ADUs, are smaller houses which occupy a single building lot with a larger, main, structure²⁶. While having a secondary unit on a lot can have several uses, there are typically two important ones which stand out. They are very popular with younger tiny home owners who build tiny homes on their parent's lot²⁷. This separate living arrangement allows autonomy and responsibility, while also being financially frugal. ADUs are also utilized as care units for disabled or elderly populations²⁸.

²² <http://thetinylife.com/what-is-the-tiny-house-movement/>

²³ <http://billmoyers.com/2014/10/06/are-tiny-houses-one-solution-to-homelessness/>

²⁴ <http://tram.mcgill.ca/Teaching/srp/documents/LauraF.pdf>

²⁵ ARTICLE: SAVING THE AMERICAN DREAM: THE LEGALIZATION OF THE TINY HOUSE MOVEMENT, 54 U. Louisville L. Rev. 357

²⁶ ID

²⁷ ID

²⁸ Overcoming the Barriers to Micro-Housing, Emily Brown,
file:///C:/Users/tyler/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/clarksean_book.pdf

ADUs as care units can again be divided between two categories based on which party occupies them, the care giver or the care receiver²⁹. In either case the care receiver gains the benefit of maintaining some level of independence. When the receiver adds an ADU to their property they can “age-in-place” and prevent the loss of freedom, dignity and finances associated with assisted living facilities³⁰. The concept of an in-law flat is nothing new, but modern advances have really revolutionized what have come to be known as granny-flats or granny-pods³¹. These tiny homes are often made using modular techniques and incorporate universal design features³². While renovating a home to be compatible with a senior can be very costly, an ADU granny-pod can save costs as well as bring seniors closer to family without overburdening them.

D. Demographics

Important in any decision-making process, is knowing who will be affected by the outcome. Tiny homes are appealing to those of all ages, though not in all the same ways. Those above 50 tend to look for entirely different things in a tiny home than those under 35. The resources available to different demographics also have an important impact on those able to get a tiny home, despite there being a larger demand.

Older Americans make up a significant portion of tiny home owners. Approximately 40% of tiny homes are owned by those 50 and up, despite another survey showing that tiny homes are least appealing to those 55s and older³³. The reason for this dichotomy is likely

²⁹ ID

³⁰ ID

³¹ ID

³² Can Modular Construction Explode the Tiny Home Movement?, <https://expressmodular.com/can-modular-construction-explode-tiny-home-movement/>

³³ <https://www.custommade.com/blog/tiny-house-movement/>

twofold. Senior Americans can, and do, take advantage of ADU's where they are available. Older Americans also tend to have more capital than those starting out, and the hurdle of cost is one they can more easily cross.

Over a third of Americans age 18-34 would at least "seriously consider" moving into a tiny home³⁴. Part of why this group is so willing to look to owning a tiny home is the rental market. More than half of this age group rents, which is above the average in nearly every state³⁵. Rental prices are also not decreasing, leading to an even larger incentive to own tiny.

Overall, those interested in tiny homes come from all walks of life. The education level attained by tiny home advocates is varied, with one third having attained a bachelor's degree³⁶. Generally, those interested in tiny homes also have small families, with single person residences being the majority but with families as large as four not being unheard of³⁷. Among those that participated in a recent survey (that had interest in tiny homes but did not own), over a quarter referred to cost as being their primary deterrent to not go tiny and nearly the same number cited zoning or other regulations for their inability to go forward³⁸. It is not uncommon for these to be linked, because many banks will not fund tiny homes until they have satisfied all regulations.

II. Problems of Tiny Homes

³⁴ <http://americantinyhouseassociation.org/tinydemographics.html>

³⁵ <https://www.custommade.com/blog/tiny-house-movement/>

³⁶ <http://americantinyhouseassociation.org/tinydemographics.html>

³⁷ ID

³⁸ ID

Tiny homes are not without noteworthy problems, but the problems often have straightforward solutions. The foremost problems with tiny homes are not even associated with their traits, but rather focus on their prohibition. Tiny homes are not banned explicitly from the vast majority of municipalities, but rather they do not meet certain thresholds mandated in ordinances³⁹. Secondary problems linked with tiny homes have to do with perceived risks and issues that stem from inadequate regulation. In addressing these, suggested solutions will also be put forth.

A. Current Prohibitions

Tiny homes have a reputation for operating in the grey area of the law, and for good reason, they often do not meet requirements put in place years and decades ago. The requirements largely fall into two categories, building codes and zoning.

Homes that do not adhere to a building code are unfit for habitation. Residences on a permanent foundation in Pennsylvania must adhere to the international residential code (IRC). The IRC is updated every 3 years and states may or may not adopt new versions⁴⁰. Currently Pennsylvania uses the 2009 version of the IRC⁴¹. The building code is a large document with very specific requirements for all aspects of a home⁴². There are numerous sections in the code that a tiny home may come into conflict with, due to their small size and attempts to make the most out of available space. These include, but are not limited to: room size requirements – each room must be 70 square feet, height requirements – this effectively prohibits lofts, stairs – full sized stairs are not compatible with tiny homes, and

³⁹ <https://www.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations>

⁴⁰ <https://www.iccsafe.org/codes-tech-support/codes/2018-i-codes/irc/>

⁴¹ <http://www.dli.pa.gov/ucc/Pages/default.aspx>

⁴² <https://ia800500.us.archive.org/26/items/gov.law.icc.irc.2009/icc.irc.2009.pdf>

emergency escape routes – sleeping quarters and lofts may have escape routes, but they do not fit into the code’s definitions⁴³. While future versions of the IRC are predicted to address tiny homes, there is no way of knowing when Pennsylvania would adopt those provisions and if the new provisions would be compatible with Pennsylvania’s vision of tiny homes.

Often the most legally grey aspect of tiny homes is when their users classify them under Recreational Vehicle or Park Model Recreational Vehicle Codes. The governing regulators are the American National Standard Institute (ANSI), with the help of the Recreational Vehicle Industry Association (RVIA), and the National Fire Protection Association (NFPA)⁴⁴. These codes allow for a tiny home to be built on a trailer with a maximum size of 400 square feet (500 if it meets additional HUD codes, but this is uncommon)⁴⁵. The catch is that while the tiny home can meet these building standards, the codes explicitly prohibit the recreational vehicle from being used as a permanent dwelling. While an RV does not need to be continuously moved, it can for instance be stored in the owners backyard indefinitely under the code, it cannot be used. Some tiny home owners regularly move their homes to get around requirements that are phrased to include “in a single location”, while others will stay in a location until they are reported to the proper authority’s and then relocate⁴⁶. There is less issue with park model RV’s located in RV

⁴³ <https://tinyhousebuild.com/wp-content/uploads/2016/09/RB168-16-Final-Comment-Reason-Statement.pdf>

⁴⁴ <http://www.rvia.org/?ESID=PMRV>

⁴⁵ ID.

⁴⁶ <http://thetinylife.com/solutions-to-the-top-5-barriers-of-the-tiny-house-movement/>

parks, but they are typically still not in compliance if they maintain continuous residency without the issue being addressed with regulations⁴⁷.

Even if a building can be assembled to the relevant codes, it still must meet the zoning requirements for the location it is placed in for permanent residency. The most obvious zoning regulation is the restriction on minimum size. Municipalities regulate the minimum size how they see fit and therefore there is no standard minimum. Steelton Borough for example allows residences if they are larger than 600 square feet in size, of habitable space⁴⁸⁴⁹. Other municipalities can have minimum sizes of 800 square feet, 1000 square feet, or even larger⁵⁰. A large tiny home tops out around 600 square feet and that is usually measured gross, not just habitable space⁵¹. Other relevant zoning restrictions are restrictions on the number of structures or dwellings on a single lot and whether a community can be established in a given area. For Accessory Dwelling units, there has to be a primary dwelling to make the secondary dwelling accessory. Not all zoning districts allow for more than one structure on a lot and even fewer allow for more than one dwelling on a lot. Tiny home communities cannot be established just anywhere, and certainly not without input from a zoning board⁵². While zoning boards may have the discretion to establish them under other provisions, such as the establishment of RV parks or mobile home parks, there are typically no direct provisions for tiny home communities⁵³. Because of this, a

⁴⁷ <http://www.tinyhouseteacher.com/2015/05/11/rv-park/>

⁴⁸ http://www.steeltonpa.com/wp-content/uploads/2016/07/Steelton_Zoning_Ordinance-2009-06.pdf

⁴⁹ Steelton Borough, Dauphin County, Pennsylvania Zoning Ordinance 2009-6 (2009).

⁵⁰ <https://www.planning.org/pas/reports/report37.htm>

⁵¹ <https://www.zillow.com/blog/how-to-measure-your-homes-square-footage-92175/>

⁵² <http://www.tinyhousecommunity.com/start-a-community/>

⁵³ ID.

typical board would err on the side of caution and not approve what there is not precedent for.

B. Why Tiny Homes are Shunned

Tiny homes have a reputation for ardent supporters, those that vocally promote the benefits of tiny living. There are equally vocal detractors, those that don't see any real benefit to living in a tiny home, but they certainly see potential problems with tiny homes in their communities. Tiny homes are not without issues, though the severity of the issues can be substantially mitigated with sufficient regulation. What follows are a few of the most common arguments against tiny home and how they can be addressed with proper regulation.

i. DIY Disaster – Codes

A 2500 square foot house is beyond the skill of any one person to construct in a timely manner. A 250 square foot home, however, can be an enticing challenge for a self-described DIY master, possibly with the help of a friend or two⁵⁴. It is not uncommon for an individual to bite off more than they can chew, and the result is a sub-par product. If the product is made for another, there can be significant hazards to the buyer who may not know to check for faulty wiring or assembly⁵⁵.

⁵⁴ <http://tinyhousetalk.com/diy-tiny-house-for-3500/>

⁵⁵ <http://countryplans.com/smf/index.php?topic=10487.0>

To minimize the risk of faulty construction, requiring inspections similar to what is required for other building projects is the easiest solution⁵⁶. Having a pertinent code available, rather than the builder trying to work around the as now existing regulations, can aid in a favorable outcome. Generally, encouraging professional involvement will help ensure tiny homes are constructed in a responsible manner.

ii. Property Valuations

Perhaps the largest outcry against tiny homes is on financial grounds, with neighbors concerned that tiny homes can impact their property values. Overall the concern is overstated, but it is not completely irrelevant. Public perception is very important in passing the ordinance and as such this concern must be addressed, in at least some small way, in the ordinance itself.

The primary method that realtors use when appraising a home to list is using the comp method⁵⁷. In that method the home is compared to other homes in the area that have been sold. Only comparable homes are used, so a 4-bedroom house would never directly impact the price of a 2-bedroom home, nor would a 1,000 square foot home be compared to a 2,600 square foot home. Just because two houses both have 3 bedrooms, 2 baths and are approximately 1,500 square feet, does not mean that they should have the same price. There are many factors which can cause a home's value to be adjusted up or down⁵⁸.

The most obvious adjustments come from the quality of the home itself. Recent renovations, new carpet, a well-designed layout, all of these can make a price go up,

⁵⁶ <http://www.eesi.org/papers/view/the-value-and-impact-of-building-codes>

⁵⁷ <http://hydeproperty.com/property-articles/30-valuation-methods>

⁵⁸ <https://www.zillow.com/wikipages/Picking-the-Best-Comparables/>

whereas a home in need of a new roof will make the price go down. After adjusting a home's price to account for what is in the home, external factors come into play and the old maxim "location, location, location" has great significance⁵⁹.

A home's location can have positive and negative effects on price and it can be direct or more indirect. A home conveniently located in a good school district, with easy access to main roads and good stores will have a higher price than a home without those and located in a high crime area. Other location based impacts can be more indirect, such as unavoidable nuisances. Airports can create noise pollution and factories can create poor air quality. Unsightly or dilapidated neighboring properties likewise have a negative effect on home price.

Besides an arguable point about unsightliness, how then do tiny homes impact a neighboring property's value? Tiny homes are considered to be affordable housing, a wonderful opportunity for low-income individuals and couples. There is a significant stigma around low income individuals being undesirable to be located around⁶⁰. While rarely stated, this is often the common thread in neighbor protests about how tiny homes can impact house values⁶¹. Tiny homes in contrast have higher rates of the primary occupant having a college degree, but it is the perception that impacts the value.

Affordable housing is important in every community. There are numerous ways that the impact of the affordable housing can be minimized. Mobile home communities have long been a great way to group affordable housing together which minimizes impacted properties. Tiny homes would similarly benefit from being in a community. Restricting the

⁵⁹ ID.

⁶⁰ <https://www.goodvaluation.com/STUDIES/Factors%20Affecting%20Residential%20Values.pdf>

⁶¹ ID.

view of a tiny home also lessens its impact⁶². Accessory dwelling units should be placed in the back yard of home as to minimize its appearance. Similarly, the appearance of tiny homes themselves can be addressed.

iii. Slums

The word “slum” does not paint a pretty picture for most Americans, and it often evokes the imagery of poorly built homes built haphazardly in a sweltering third world country. Part of the reason slums do not persist in America, at least to that degree, is because of the work of Jacob Riis and his treatise titled *How the Other Half Lives*⁶³. In it, he describes the squalid conditions of turn-of-the-century New York city immigrant quarters. After the piece gained notoriety, public officials took note and responded accordingly, leading to the beginnings of modern zoning and building restrictions⁶⁴.

Modern slums still exist, and not just the type depicted in movies like *Slumdog Millionaire* or the inception like landscape around Mexico City. Tokyo has a growing “fad” of what have been nicknamed coffin apartments⁶⁵. These rooms can be as small as 25 square feet and can rent for the equivalent of \$4-500⁶⁶. Without proper regulation, tiny

⁶² <http://www.sightline.org/2017/04/20/not-in-your-backyard-cottages-in-law-apartments-and-the-predatory-delay-of-halas-adu-rules/>

⁶³ <https://www.khanacademy.org/humanities/art-americas/us-art-19c/us-19c-arch-sculp-photo/a/jacob-riis-how-the-other-half-lives-knee-pants-at-forty-five-cents-a-dozen-a-ludlow-street-sweaters-shop>

⁶⁴ ID.

⁶⁵ <http://www.dailymail.co.uk/news/article-2286069/Living-box-The-tiny-coffin-apartments-Tokyo-cost-400-month-rent.html>

⁶⁶ ID.

homes could follow down a similar path, with landlords allowed to have smaller and smaller spaces with no real decrease in rent^{67, 68}.

There are a number of ways, working in concert, that can prevent the ills of slums. Maintaining some minimum interior as well as exterior space is one way to prevent coffin apartment like tiny homes. Another important way to prevent the worst-case scenario is to restrict the ability to rent tiny homes. Allowing only one of the dwellings to be rented at a time in an accessory dwelling situation would effectively eliminate their exploitation by rental companies. Tiny homes in communities could be protected from slum status by simply requiring that lots be of a certain size, a size which would not be smaller than that needed for apartments.

iv. Aesthetic and the Community Feel

Everyone has seen the impact before, that individual that is determined to make sure their house stands out, and be it painting it purple, bringing back 18th century Spanish style homes to a new England village, or going with an ultra-modern look, they succeed. The role of government in controlling these choices is up for debate, with ardent supporters on both sides. What is for certain however, is that individuals of each side will be present in the community and they may impact how tiny home ordinances are drafted.

The most common way for controlling the appearance of a home is through Covenants, Conditions & Restrictions (CC&R) as part of a home owner's association⁶⁹. Because these are regarded as voluntary, these restrictions can be quite narrow, specifying paint shades, house trim

⁶⁷ <https://definitions.uslegal.com/s/slumlord/>

⁶⁸ <https://www.echo.net.au/2017/09/tales-housing-exploitation/>

⁶⁹ <http://realestate.findlaw.com/owning-a-home/ccrs.html>

and many other particulars. These restrictions are only available from CC&R's and are not a very good measure for a municipality⁷⁰. They can be relevant to tiny home communities with a HOA.

Municipalities do not have quite the same authority to regulate appearance as CC&R's, though some jurisdictions have come close⁷¹. Generally, however, in order to enforce specific provisions an architectural review board is required. These boards review plans for new structures and have the final say in pre-construction appearance⁷². If a plan does not meet their specifications, they withhold the building permit.

Without an architectural review board a municipality still has options, but it may be better to ground them outside of pure aesthetics. Municipalities have a duty to their residents and protecting property values is part of that⁷³. Egregiously bad taste in housing can diminish property values and ordinances disallowing properties from significantly impacting the value neighboring properties have been held to be valid.

If an architectural review board is in place, there is no harm in requiring tiny homes to comply to the same regulations as other structures⁷⁴. If there is no architectural review board, which is the case in many municipalities, it is important to know where to draw lines. While provisions may be held up in court, it is perhaps more important that the provisions are structured precisely enough, and with sufficient grounding to deter suit at all.

v. Tiny Homes as Rental Units

⁷⁰ <http://www.lex-co.sc.gov/departments/DeptAH/communitydevelopment/Documents/web%20info%20brocures/DeedRestrictionsHandout.pdf>

⁷¹ <http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1652&context=mulr>

⁷² ID

⁷³ ID.

⁷⁴ <https://www.hoaleader.com/public/374.cfm>

Requiring units to be rented is an easy solution to prevent several of the issues that plague tiny homes, but at the cost of deterring their use. The original owners of a tiny home are often quite content to have it for their own use or the unrented use of ones close to them, such as with ADUs. The issue then stems from resale. A home with an accessory dwelling in the back could be great for some families but without the ability to rent it, it becomes a burden on the property to many potential buyers⁷⁵. Unregulated renting also has its own downsides.

Accessory dwelling units will frequently be built in communities. A sense of community is important to maintain. While there may be some individuals in a community that would say otherwise, long term leases do not significantly impact that sense of community, when done in moderation⁷⁶. Short term leases, such as with hotels or motels or bed and breakfasts, can impact the community. Leases of days or weeks mean that neighbors will not get to know each other and become more alienated. It also becomes more difficult for neighbors to identify suspicious activity or suspicious individuals when new tenants frequently show up.

There is also an underlying issue that could become problematic if not addressed. While tiny homes are intended to benefit the owner of the primary home, and that can be tangentially accomplished by allowing rental of the tiny home, allowing the rental of both structures simultaneously, allows for the rise of companies to exploit accessory dwelling units. Without severe restrictions on occupancy, any rental company would be incentivized to put a tiny home in the back yard of each home they rent out in order to increase their

⁷⁵ http://www.oregonlive.com/hg/index.ssf/2014/04/renting_your_tiny_house_attrac.html

⁷⁶ <http://homeguides.sfgate.com/rental-properties-affect-neighborhood-6910.html>

income. Some areas have, in response, restricted occupancy to individuals in need of care or their caretakers.

A minimum rental duration put on tiny homes can significantly decrease the risk of their use for short term housing while not eliminating the ability to rent them altogether⁷⁷. The issue of excessive abuse of tiny home rentals can also be largely dealt with by provisions in a tiny home ordinance. Restricting rental to only one of the units at a time will substantially disincentivize their commercialization in that setting. Ordinances already in place to deal with renting should be sufficient to deal with most other rental issues.

III. Benefits of Tiny Homes

Tiny homes are becoming more popular, not because they are strange or different, but because they offer substantial benefits. The benefits are not just for those that reside in them either, there are benefits for the community in general. The benefits include increased affordable housing, conservation of resources, senior and disability care, and increased freedom.

A. Affordable Housing

Whether you are talking about renting or buying, having affordable housing is important. Because tiny homes can generally be rented or sold, it is important to discuss both markets. Tiny homes are particularly suited for affordable housing because of their diminutive size, and smaller construction cost. Affordable housing obviously benefits the individuals that occupy them, but the benefits can extend beyond users.

Housing costs have increased substantially in the last few decades. In 1963, the earliest data obtainable from the census, the national median house cost was \$18,000⁷⁸. This year the national

⁷⁷ <https://www.nolo.com/legal-encyclopedia/legal-restrictions-renting-your-home-airbnb-other-rental-services.html>

⁷⁸ <https://www.census.gov/const/uspricemon.pdf>

median house cost hit \$263,000 at its peak in June, 2017⁷⁹. This puts the standard 20% down payment at over \$52,000. The median house cost also does not include loan interest which is now a near inevitable part of home ownership. Americans are also increasingly struggling to save money, with a recent report finding that 76% of Americans are living paycheck to paycheck, with little to no emergency savings⁸⁰. A tiny home can be built for as little as \$23,000 with average prices for contracted construction still in the mid \$30,000 range⁸¹.

Rental prices have similarly risen in recent decades. In Pennsylvania the median rental price for a 1 bedroom apartment is \$810⁸². The price for attached, detached and larger housing is higher. These rent costs have driven the increase in young Americans (age 18-34) to choose to live with their parents or other close relatives to a 75 year high of 40%⁸³. Of those that do rent, over 50% do so because they cannot afford a down payment⁸⁴.

When disposable income increases in those with low incomes, the outcome is that the money is instead spent on local goods such as entertainment, food, healthcare, and transportation⁸⁵. Disposable income increases most substantially when the cost of housing is reduced. The increased rate of spending helps to revitalize communities while increasing quality of life for the residents⁸⁶.

B. Conservation of Resources

Tiny homes have come to be known as a beacon of sustainability. They are often built with higher quality materials than are economical to use in a full-size house, which helps decrease

⁷⁹ https://ycharts.com/indicators/sales_price_of_existing_homes

⁸⁰ <http://money.cnn.com/2013/06/24/pf/emergency-savings/index.html>

⁸¹ <http://restoringsimple.com/tiny-house-statistics/>

⁸² <https://www.apartmentlist.com/rentonomics/rental-data/>

⁸³ <https://www.wsj.com/articles/percentage-of-young-americans-living-with-parents-rises-to-75-year-high-1482316203>

⁸⁴ <http://money.cnn.com/2013/06/24/pf/emergency-savings/index.html>

⁸⁵ <http://plannersweb.com/2011/08/the-economic-fiscal-benefits-of-affordable-housing/>

⁸⁶ <http://placerhousingmatters.org/economic-benefits-of-affordable-housing/>

maintenance.⁸⁷ Their smaller size means less space to heat and cool. Heating and cooling can be responsible for 80% of a home's emissions during its lifetime⁸⁸. This ends up saving the owner substantial money as well.

The carbon footprint of a tiny home is also significantly reduced. It was estimated in one study that cutting a home's size in half decreases the carbon footprint to construct it by 36%⁸⁹. As tiny homes are often one-fourth to one-sixth the size of the median new home, if the principle holds they will have a construction footprint one-third that of a traditional home.

One of the downsides, or upsides, of tiny homes is that there is substantially less space to store things. This leads, ideally, to fewer purchases and less accumulated "junk". While difficult to quantify, there can be a substantial emission's saving to a household by simply not buying the things that they do not have space for. Overall, there are significant energy savings which can translate to financial savings for the homeowner.

C. Disability and Senior Care

The use of tiny homes to assist the disabled and the aging is arguably one of their best uses. Tiny homes as ADU allow those with special needs to either stay in their own home or to stay with family. Tiny homes allow this to be done at a cost that is not prohibitive.

While many tiny homes can be built by the owner, tiny homes intended to be used as a care unit are typically best built using modular construction⁹⁰. This building process can seamlessly integrate many universal design features and be tailored to specifically what the occupant will need⁹¹.

⁸⁷ http://digitalcommons.csbsju.edu/cgi/viewcontent.cgi?article=1034&context=elce_cscday

⁸⁸ <http://restoringsimple.com/tiny-house-statistics/>

⁸⁹ <http://restoringsimple.com/tiny-house-statistics/>

⁹⁰ <https://expressmodular.com/can-modular-construction-explode-tiny-home-movement/>

⁹¹ <http://www.wisebread.com/a-granny-pod-may-be-the-smartest-way-to-care-for-an-elderly-parent>

Constructing a separate dwelling unit rather than renovating existing space can actually be economical. The areas in a home least friendly to restricted users tend to be the bathroom and the kitchen⁹². Because of the amount of technical work such as plumbing and electrical, renovations of these spaces can have substantial cost. Utilizing modular, where the manufacturers have plumbing and electrical specialists on staff, can significantly lower the overall cost as well as ensure that the work is done to a higher standard than what may occur from a DIY remodel.

IV. Tiny homes in Other Jurisdictions

Around the country municipalities and other jurisdictions have become more receptive to the idea of tiny homes. The ways that these states, counties, towns, townships and other municipalities have addressed the issue are as varied as they are. The most specific regulations tend to come from the municipalities with larger governmental bodies tending to adopt guidelines for the municipalities to follow. The three tiny home settings, ADU, tiny home communities, and stand-alone tiny homes, are the predominate methods of regulation, with jurisdictions adopting, one, two, or all three. Jurisdictions also specify whether they want to allow fixed, THOW, or both.

A. Accessory Dwelling Units

Accessory dwelling units, smaller buildings intended for habitation on the same lot as a larger dwelling, are the most popular method of allowing tiny homes. This is unsurprising as they have a history that predates the movement. The “in-law suite” is an attached or occasionally detached, self-contained dwelling area that allows for the care of ones aging parents. The prevalence of this concept has made new regulations an easier step.

Some municipalities in most states have adopted ordinances allowing for accessory dwelling units in at least some situations. California is one of the first states to have adopted

⁹² Universal Design, <https://expressmodular.com/universal-design/>

regulations for ADU's statewide⁹³. Municipalities, such as Los Angeles, commonly adopt ordinances to adapt the general ADU mandate to suit their needs.⁹⁴ The ordinance up for adoption in LA has several key points beyond the state mandate, including; that ADU's in the Hillside are must be within a half mile of public transport, ADU's must not be located between the front of the primary residence and the street, and only one ADU is allowed per residential lot⁹⁵. The predecessor to this ordinance allowed for 404 units to be constructed⁹⁶. The state mandates that ADU's may not be greater than 1,200 square feet or more than 50% of the primary dwellings size but that it cannot be required that the ADU is less than 640 square feet. In nearby San Diego county, they have put forth a guide to accessory units in the county⁹⁷.

Newport, Oregon has adopted an ordinance for ADU's to better comply with its comprehensive plan and goals of providing affordable housing⁹⁸. Part of their intent in adopting the ordinance is to create affordable housing for workers in the city, as well as to provide housing for family members and on-site care givers. Some of the key provisions of their ordinance include; the requirement that the ADU and primary dwelling unit not be transferred separately, a maximum square footage of the lesser of 600 square feet or 50% of the primary dwelling size, exemption from the residential density standards, and that water, sewer, electric, and gas shall not be separately metered from the primary dwelling⁹⁹.

Toledo, Oregon has provisions for ADU's that they have included in their zoning ordinance, not merely as a separate provision. As part of this, the section of the code is much shorter than the ordinances that many other municipalities have adopted. It requires that the ADU's be no larger

⁹³ <http://hcd.ca.gov/policy-research/docs/2016-12-12-ADU-TA-Memo.docx.pdf>

⁹⁴ <https://planning.lacity.org/ordinances/docs/ADU/InformationSheet.pdf>

⁹⁵ <http://planning.lacounty.gov/assets/upl/project/adu-ordinance-draft.pdf>

⁹⁶ ID.

⁹⁷ <http://www.sandiegocounty.gov/pds/zoning/formfields/PDS-345.pdf>

⁹⁸ http://newportoregon.gov/dept/adm/ordinances/2055/ord_2055.pdf

⁹⁹ http://newportoregon.gov/dept/adm/ordinances/2055/ord_2055.pdf

than 650 square feet or 35% of the primary dwelling unit size¹⁰⁰. Other requirements include; owner occupancy of one of the units, an additional off-street parking space, and siding and roofing that match the primary dwelling in color, style and appearance.

B. Tiny Home Communities

Ordinances allowing for communities of smaller homes are widespread throughout the US but not all of the smaller homes are true tiny homes. There are also a variety of names for these communities, such as pocket communities, garden style communities, and cottage communities. The variations sometimes have specific meanings, such as garden style communities having a centrally located communal green space. Whatever they are called, these small home communities increase the number of housing below the median home cost in an area.

Because of the benefit to the community, especially among the elder sector, several organizations have put forth recommendation for tiny home communities. This is done to aid the surrounding municipalities in designing ordinances. Livable New York is one such organization which has helped to spell out what municipalities in New York must do to enact ordinances to allow for the communities¹⁰¹. The Lehigh Valley Planning Commission has also done a study on tiny home communities. Referred to as Cottage Housing Developments, the commission explains their characteristics before going into case studies¹⁰².

Winchester, Virginia has enacted a zoning ordinance for cottage housing developments. Part of their stated purpose is to promote affordable housing which replicates the look of the early 1900's craftsman style homes¹⁰³. The homes are intended for use by individuals and couples. The community size is dictated by the zoning district which it is located in. otherwise of note in the

¹⁰⁰ https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/7993/Toledo_Zoning_Code.pdf?sequence=1

¹⁰¹ <https://aging.ny.gov/LivableNY/ResourceManual/PlanningZoningAndDevelopment/II2c.pdf>

¹⁰² <http://www.lvpc.org/pdf/cottageHousingDev.pdf>

¹⁰³ https://www.winchesterva.gov/sites/default/files/documents/planning-zoning/zoning_ordinances/art13-1.pdf

ordinance is; the requirement of a porch on each unit, the ground floor area may not exceed 864 square feet, and that 400 square feet of common space is required per cottage in the community¹⁰⁴. Lot coverage and many other requirements must still comply with the original zoning ordinance.

Portland, Oregon has had an increasing homelessness issue for several years, so much so that the city declared a state of emergency because of it. While a specific ordinance addressing tiny home communities has not been passed, there are several pilot programs which have been started around the city¹⁰⁵. In Kenton a tiny home village with 14 units is in its first year providing shelter for 14 women¹⁰⁶. Dignity village is the oldest tiny home community in Portland, which was the genesis of the push for tiny homes as shelter for the homeless.

C. Stand-alone, Complete Allowance

There are a multitude of implications if a municipality decides to allow tiny homes without restriction. While no municipality truly has no restriction, several come very close.

Walsenburg, Colorado recently passed an ordinance which allowed for a tiny home to be built on any land zoned as R-1 or R-2 with a variance¹⁰⁷. As part of the requirement, the tiny home must be, once approved, permanently attached to a foundation or footers. There is also a requirement that the home be attached to city water and sewer.

The town of Spur, Texas has declared itself to be “America’s first tiny home friendly town”¹⁰⁸. As part of that resolution, the tiny town of Spur allows tiny homes to be put anywhere in city limits, though some communities will require a variance. While initially leaving the door wide open, the town soon decided to adopt minimal requirements via ordinance. Some such requirements of the ordinance include that the home must be attached to city water and sewer and that the home has a driveway. Tiny homes on wheels must be attached to a foundation as a safety

¹⁰⁴ ID.

¹⁰⁵ http://www.oregonlive.com/portland/index.ssf/2017/10/tiny_homes_for_the_homeless_po.html

¹⁰⁶ http://www.oregonlive.com/portland/index.ssf/2017/06/portland_community_prepares_ke.html

¹⁰⁷ <http://www.tinyhousecommunity.com/tiny-houses-on-foundations-allowed-with-a-variance-in-walsenburg-co/>

¹⁰⁸ <http://spur.lifeonthe.cloud/building>

issue, as tornadoes are a possibility in the area. The change in heart happened because, with no restrictions at all, the tiny conservative community became a mecca for experimental tiny home designs and the unique individuals who wished to live in them¹⁰⁹.

V. Keys to an Effective Ordinance

In order to minimize the negatives of tiny homes while keeping the benefits that they bring, a well-crafted ordinance is essential. Because tiny homes are a somewhat recent phenomenon, most regulation concerning them has only come out in the last 15 years. It is still important to look to what other jurisdictions have done to regulate tiny homes and, when the information is available, to see how successful the regulations have been. Included in this section will also be a spotlight for the attached ordinance, so that key points can be emphasized. Finally, it is important for any ordinance to receive the necessary funding and public support so that it can actually be adopted.

A. Distillation of Effective Laws

While tiny homes are a shining example of less being more, that is not the case in their regulations. Ordinances which only minimally regulate tiny homes are ripe for abuse. Conversely, ordinances that are too restrictive will stunt tiny home development and the benefits that they can bring will not be realized. Stand-alone tiny homes have not been very successfully addressed by ordinances. While that is not to say that they could not be, pioneering in this territory can invite undue burden on zoning boards.

Tiny homes on wheels are the most popular form of tiny homes, but they can also be the most difficult to regulate. The freedom to move a tiny home makes them an enforcement nightmare unless sufficient plans are in place. While enforcement may be in the background regardless of an ordinance making some legal, it will be harder to identify non-complying THOW's when there are some that do comply. THOW's do offer some of the largest benefits of any tiny home because it allows their owners to have equity in the home itself. This is true for any tiny home setting. Because

¹⁰⁹ <https://inhabitat.com/texans-rethink-acceptance-of-tiny-house-movement-growing-in-spur-tx/>

of the substantial benefits, we do not recommend against THOW's but they require regulation outside the scope of this model ordinance and may best be added once a municipality has become familiar with other tiny homes.

Accessory dwelling units are the most popularly allowed tiny home for good reason. The best ordinances include some of the following restrictions; the size of the ADU is no more than half of the primary dwellings size, basic utilities such as sewer and water hookups are required, minimal but present regulation of exterior appearance, rental restrictions, and requiring that the ADU and primary unit not be transferred separately.

Tiny home communities can have very unique requirements because of the various purposes for their creation. Some of the key considerations are: whether or not there is a common area, where parking will be located, porch requirements, lot size requirements, density requirements, appearance and screening, and how many units can be in a community. More than one tiny home community type can be adopted, which adds to the flexibility of a developer.

B. Ordinance Spotlight

The attached ordinance addresses the necessary features to allow for accessory dwelling units and tiny home communities in a municipality. Specifically, the building codes and zoning ordinances which disallow tiny homes are addressed. Two types of tiny home communities are created. Regulations specifically for ADU are also included.

Tiny homes are generally unable to comply with all building codes in the IRC. Many of the codes contained in it are still very important for tiny homes to follow. Rather than attempting to create a new set of building codes for tiny homes, the model ordinance addresses those provisions which will be held to be inapplicable to tiny homes. Similarly treated are zoning ordinances. This model ordinance exempts tiny homes from the minimum size requirements of zoning ordinances as well as a few other requirements.

The ordinance creates two different tiny home communities, park style and garden style. The garden style will be the traditional tiny home community with a common green space while park style will be a more traditional development with parking by each unit.

C. Funding/Overcoming Opposition

Tiny homes are, at the end of the day, just small homes. There will be permit fees such as with other housing and there will be issues of compliances such as typical construction would have. Fines levied for infractions will aid in funding enforcement. Tiny homes on wheels may increase the number of infractions which is why we recommend not including them in the initial ordinance allowing tiny homes.

Tiny homes are intended to house individuals and couples. As such, there will not be an appreciable increase in school age children. Tiny home communities can impact neighboring property values, but no more so than other high-density housing. ADU's will not be transferred separately and will overall increase the value of a residential lot.

Conclusion

Tiny homes are rising in popularity as an affordable way to own one's own home, reduce one's environmental impact, and maintain the freedom of independent living for as long as possible. Generally, the reasons stopping more people from pursuing tiny homes are that tiny homes are incompatible with some building codes and zoning restrictions. While there were noble reasons in preventing violations, the adoption of a proper ordinance can minimize the negatives while allowing for the benefits of tiny homes.

It is important when adopting an ordinance to allow tiny homes to remove only the existing rules which truly disallow tiny homes. In the case of building codes, specificity is key. With clear rules in place, tiny homes can remain safe habitations, despite being small. Tiny homes will have

minimal impact on other lot values beyond what impact other legally available alternatives will have. While tiny homes may not quite have the same look as modern homes, simple aesthetic regulations can help them fit in without being too burdensome. Also, many older homes have much smaller footprints and tiny homes will not be too far removed from them. Tiny homes can be a great source of secondary income while providing affordable housing. To prevent abuse of this situation it is important to allow only one dwelling unit per lot to be rented at a time and to impose minimum rental durations.

The attached model ordinance addresses the key points concerning tiny home adoption. It provides a waiver of certain building codes necessary for an efficiently constructed tiny home. It identifies the best areas to situate the tiny homes and allows for them in locations where zoning ordinances would generally disallow them. It addresses both tiny homes in communities and tiny homes as accessory dwelling units. It creates two new community types for tiny homes to be constructed in.

Tiny homes are here to stay. A municipality that stays ahead of the game by proactively enacting necessary ordinances will reap the most benefits, while late adopters may well miss out on the most avid tiny home enthusiasts looking to relocate. This ordinance is also a positive step in protecting the elder populations in our communities by allowing them to age in place for longer. We invite you to use this model ordinance and tailor to your municipalities needs.

TINY HOMES MODEL ORDINANCE
By: Jennifer Breneman and Tyler Semler

ORDINANCE NO. _____

AN ORDINANCE OF THE _____ [TOWNSHIP/BOROUGH] OF
_____ COUNTY, PENNSYLVANIA, TO ESTABLISH
ZONING REGULATIONS RELATED TO TINY HOMES AND TINY HOME
COMMUNITIES

WHEREAS, there is an increasing interest and need in this
Commonwealth for smaller, more economical and sustainable
housing options.

WHEREAS, in adopting this ordinance, this
[township/borough] can regulate and address the growing interest
and need for tiny homes.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the authority
of the {Board/Council} of the _____
[Township/Borough] of _____ County, Pennsylvania:

Chapter 1

Preliminary provisions

Section 101. **Short title.**

This ordinance shall be known and may be cited as the Tiny
Home Ordinance.

Section 102. **Legal authority.**

This Chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, "The Pennsylvania Municipalities Planning Code," July 31, 1968, as amended ("MPC").¹¹⁰

Section 103. **Purpose and Intent.**

(a) **Affirmative Purpose.** This ordinance is enacted to promote, protect, and facilitate one or more of the following:

(1) the orderly and efficient integration of land development with the [borough/township];

(2) the appropriation of land use in an effective, sustainable fashion;

(3) stabilization and conservation of the value of land and homes;

(4) the public health, safety, morals, general welfare of the community;¹¹¹

¹¹⁰ Steelton Borough, Dauphin County, Pennsylvania, Zoning Ordinance 2009-6 § 120-2 (2009).

¹¹¹ Pittsburgh, Pennsylvania, Zoning Code, Article 1, § 901.03 (1999).

(5) coordinated and practical community development;

(6) proper density of population; and

(7) public grounds and other public requirements
(including adequate sites for recreation, conservation,
scenic and other open space purposes).

(b) **Preventative Purpose.** This ordinance is enacted to
prevent one or more of the following:

(1) overcrowding of land and sprawl of improper land
use;

(2) blight; and

(3) loss of health, life or property from fire,
flood, panic or other dangers.

(c) This ordinance is in accordance with an overall
program and with consideration for the character of the

municipality, its various parts, and the suitability of the various parts for particular uses and structures.¹¹²

Chapter 2

Definitions

"Accessory dwelling unit" or **"ADU."** A tiny home which is detached and apart from the main dwelling house which includes living, sleeping, kitchen and bathroom facilities and has a lockable entrance door.¹¹³

"The Board." The _____ Board of _____ [Borough/Township].¹¹⁴

"Development concept permit." A permit required for the lawful development and construction of a tiny home community.

"Dwelling unit." A structure or a building, or portion of a structure or building, arranged for the use of one or more individuals living together as a housekeeping unit on a permanent, temporary or transient basis which shall include sanitary

¹¹² Steelton Borough, Dauphin County, Pennsylvania Zoning Ordinance 2009-6 (2009).

¹¹³ Accessory Dwelling Unit. Found at <http://www.findwell.com/real-estate-dictionary/definition/accessory-dwelling-unit/>.

¹¹⁴ This would be the applicable zoning hearing board in the township/borough.

facilities and facilities for preparation, storage and serving of food.¹¹⁵

"Garden community." A tiny home community that is laid out in a typically irregular, oval pattern with a common area in the middle and without individual, at-unit parking spaces.

"Homeowners' association" or "HOA." An organization of homeowners of a tiny home community.¹¹⁶

"Owner." Any of the following:

(1) Any person who has legal title to any portion of a tiny home;

(2) Any person who has charge, care or control over a tiny home including:

(a) An agent, officer, fiduciary or employee of the owner or

(b) A conservator, or legal guardian of an owner who is incompetent, a minor, or otherwise under a disability;

¹¹⁵ Lower Paxton Township, Dauphin County, Pennsylvania, Construction Standards Ordinance 04-08, § 90-1 (June 15, 2004).

¹¹⁶ Home Owners Association or HOA Law and Legal Definition, found at <https://definitions.uslegal.com/h/home-owners-association-or-hoa/>.

(c) A trustee, elected or appointed, or a person required by law to act as a trustee, excluding a trustee under a deed of trust to secure the payment of money; or

(d) An executor, administrator, receiver, fiduciary, officer appointed by any court, attorney in fact or other similar representative of the owner's estate, excluding a lessee, a sublessee or other person who merely has the right to occupy or possess a premises.¹¹⁷

"Park style community." A tiny home community where the dwellings are aligned with the streets and each has separate parking.

"Permanent resident." A resident occupying a tiny home for a period of [30] consecutive days or [60] out of [90] days.

"Primary dwelling" A principle residence existing upon a lot upon which an owner proposes to erect a tiny home as an ADU.

¹¹⁷ Lower Paxton Township, Dauphin County, Pennsylvania, Construction Standards Ordinance 04-08, § 90-1 (June 15, 2004).

"Residential purpose." Occupation of a premises for the purpose of making it one's usual place of abode. It does not mean occupying a premises for vacation or transient purposes.¹¹⁸

"Stand-alone tiny home." A tiny home which is not otherwise part of a tiny home community and is not an accessory dwelling unit.

"Tiny home." A residential structure which meets the following standards:

(1) The residential structure contains a minimum of [200] square feet and a maximum of [600] square feet of living space;

(2) The residential structure is a detached, self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping and toiletry; and

(3) The residential structure is designed and built to look like a conventional building structure.

¹¹⁸ *Slaby v. Mtn. River Estates Residential Assoc.*, 100 So.3d 569, 571 (Ala. Civ. App. 2012).

"Tiny home community." A community consisting of tiny homes in a subdivision of real estate dedicated to containing only tiny homes known as a "garden community" or "park style community."

"Tiny home on wheels" or "THOW." A tiny home which is permanently attached to a chassis and which is towable and road permissible.

Chapter 3

General provisions

Section 301. **Tiny home.**

A tiny home shall have a functioning bathroom, cooking area, and sleeping quarters as well as meet all other requirements of this chapter.

Section 302. **Specifications.**

A tiny home shall be constructed to specifications set forth in the currently adopted version of the International Building Code concerning walls and insulation, roofing, flooring, wiring and plumbing.

Section 303. **Permitting.**

(a) **Requirement.** A tiny home shall not be considered lawful and construction may not begin until a building permit has been issued for it by the permitting officer¹¹⁹.

(b) **Conditions for building permit.** In order for a building permit to be considered for approval by the permitting officer, the owner must submit hard and electronic copies of the following:

(1) blueprints/plans/drawings showing the structural specifications of the tiny home;

(2) a site or plot plan indicating the proposed placement of the tiny home on the lot as well as the existing structures on the lot;

(3) a statement describing proposed construction methods along with the names and addresses of any contractors hired;

¹¹⁹ To be designated by the [township/borough]. The township/borough may impose additional permitting requirements separate and apart from the building permit requirement to address specific zoning requirements.

(4) if the home is to be part of a tiny home community, sufficient documentation to indicate where the home will be constructed in the community; and

(5) if the home is to be an ADU, a certification that the ADU can adequately connect to the existing sewer line or septic tank. In the alternative, if it is determined that the existing septic tank cannot handle additional capacity from the ADU, plans for a separate septic tank shall be submitted and approved.

(c) **Duration of building permit.** A building permit shall be valid for [12]¹²⁰ [months] from the date of issuance until the completion of construction of the tiny home.

(d) **Building permit fee.** The building permit fee shall be [\$1,000] and must be paid at the time of submission of permit application to the permitting officer.

¹²⁰ All bracketed spaces or numbers within this Model Ordinance represent a number that may be changed or selected based on the discretion of the township/borough. Where numbers are inserted within the brackets, those numbers have been determined as recommendations based upon research on other jurisdictions' ordinances or a reasonable suggestion based on research.

The building permit fee shall be reduced to [\$500] upon a finding by the permitting officer that the construction plans comply with green building standards.

Section 304. **Appeals.**

(a) The grant or denial of a permit may be appealed in writing by the applicant or other aggrieved party to the Board within [30] business days of receipt of notice of the grant or denial.

(b) The aggrieved party shall be given an opportunity for a hearing within [60] days.

(c) The decision of the Board, or any decision by the permit officer which is not appealed in accordance with paragraph (1) herein shall be deemed final action.

Section 305. **Fees.**

Fees for the administration and enforcement of this ordinance shall be established by the Board by resolution from time to time.¹²¹

Section 306. **Inspections.**

(a) A tiny home shall be inspected and approved by a licensed electrician before it may be utilized as a dwelling.

(b) A tiny home shall be inspected and approved by a licensed Plumber before it may be utilized as a dwelling.

Section 307. **General zoning.**

Zoning restrictions which set a minimum size for dwellings are not applicable to tiny homes built in accordance with this ordinance.

¹²¹ Lower Paxton Township, Dauphin County, Pennsylvania, Construction Standards Ordinance 04-08, § 90-11 (June 15, 2004).

Section 308. **Occupancy.**

(a) **Maximum occupancy.** A tiny home shall not have more than [3] occupants as concurrent permanent residents.

(b) **Permanent and temporary occupancy.** A tiny home may be occupied on a permanent or temporary basis.

Section 309. **Administration.**

Administration and enforcement of this ordinance within the [township/borough] may be undertaken in any of the following ways as determined by the Board of the [township/borough] from time to time as specified in a resolution:

(a) by designation of an employee of the [township/borough] to serve as the municipal code official to act on behalf of the [township/borough];

(b) by the retention of one or more construction code officials or third party agencies to act on behalf of the [township/borough]; or

(c) by agreement with one or more other municipalities for the joint administration and enforcement of this ordinance through an intermunicipal agreement.¹²²

Chapter 4

Accessory Dwelling Units

Section 401. **Applicability.**

This section shall apply to ADUs. An ADU shall comply with the provisions of this section in addition to Section 3 of this ordinance.

Section 402. **Zoning requirements specifically applicable to ADUs.**

(a) Zoning restrictions which allow for residential housing and specify lot sizes one-half acre or more shall not prohibit tiny homes from being constructed in those zones if the tiny home is constructed in accordance with this ordinance.

(b) All other zoning restrictions not addressed herein are still in full effect concerning tiny homes.

¹²² Lower Paxton Township, Dauphin County, Pennsylvania, Construction Standards Ordinance 04-08, § 90-8 (June 15, 2004).

Section 403. **Rental of ADU.**

(a) An ADU shall not be rented for a period of less than [2] months.

(b) An ADU and the primary dwelling located on the same lot shall not be rented concurrently.

(c) A violator of this section shall be given written notice of such violation from the [township/borough] with an opportunity to cure the violation within [thirty] days from the date of the notice.

(d) A violator who continues the violation after the thirty day notice period identified in subsection (c) will be assessed a fine in the amount of \$[500] by the appropriate magisterial district justice.

Section 404. **Specifications.**

(a) **Minimum size.** A tiny home built as an ADU shall have a minimum gross floor area of not less than [200] square feet

for the first occupant and not less than [100] square feet for each additional occupant.

(b) **Maximum Size.** A tiny home built as an ADU may not exceed [600] square feet in size.

(c) **Width.** The minimum width of a tiny house shall be at least [eight] feet, with a maximum of [20] feet.

Section 405. **Position on lot.**

An ADU shall be placed in the rear yard of the primary dwelling and so situated as to minimize its view from a public road and at such a location to comply with applicable setbacks.

Section 406. **Additional parking spaces.**

The construction of additional parking spaces shall not be required if the lot has an existing paved parking area that will accommodate the parking for the proposed number of additional vehicles and there would be no increased burden on on-street parking. If additional parking is required, it shall be done in accordance with [relevant code].

Section 407. **Appearance.**

(a) An ADU shall be built to have an appearance in general congruity with either the primary dwelling.

(b) Wall and window requirements:¹²³

(1) A blank wall shall not be permitted along any exterior wall facing a street.

(2) Smoked, reflective or black glass in windows shall not be permitted.

(3) Windows may not consume more than [10%] of the wall space.

(4) Nothing in subsection (a) shall be construed to negate or impinge a home owner's association or like organization's restrictions in controlling the appearance of a tiny home.

¹²³ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance.

Section 408. **Connection to primary dwelling.**

(a) A tiny home shall be separate and distinct from the primary dwelling and they shall not share any wall or part of a wall.

(b) A covering may be constructed above the pathway from the primary dwelling to the ADU, but it may not be enclosed.

Section 409. **Sewer connection or septic tank use.**

(a) **Public sewer.** Provided that the primary dwelling is connected to the public sewer system, an ADU shall connect or tie in to the primary dwelling's sewer line.

(b) **Septic tank.** If the primary dwelling is not connected to the public sewer system, but utilizes a septic tank for wastewater removal, then a ADU shall also deposit its wastewater into the existing septic tank if it is able to handle the additional discharge. If it is determined that the existing septic tank will not be able to handle additional discharge from the ADU, a separate septic tank shall be installed.

Section 410. **Lot non-severability.**

The ADU may not be conveyed, or the title to the ADU be transferred separate and apart from the rest of the property.¹²⁴

Section 411. **Pedestrian access.**

An all-weather surface path to the ADU shall be provided from the street frontage.

Section 412. **Mechanical equipment.**

Mechanical equipment shall be located on the ground or contained within an ADU and may not be located on the roof.

Section 413. **Utility meters.**

Separate gas and electric meters may be permitted for an ADU if approved by the [appropriate designated official] and utility company.¹²⁵

¹²⁴ Fresno, California Development Code, Section 15-2754 (Jan. 3, 2016).

¹²⁵ *Id.*

Chapter 5

Tiny Homes in Communities

Section 501. **Applicability.**

The provisions of this section apply to both garden style communities and park style communities in addition to the provisions of Chapter 6.

Section 502. **Minimum and maximum size.**

(a) A tiny home in a community shall have a minimum gross floor area of not less than [200] square feet for the first occupant and not less than [100] square feet for each additional occupant.

(b) A tiny home shall not exceed [600] square feet.

Section 503. **Utilities.**

A tiny home in a community shall have an electric meter and, if applicable, a gas meter separate from all other tiny homes in the community.

Section 504. **Mechanical equipment.**

Mechanical equipment shall be located on the ground or contained within the structure and shall not be located on the roof.

Section 505. **Development concept permitting and plan approval.**

(a) **Requirement.** A tiny home community shall not be developed or constructed until a development concept permit¹²⁶ has been issued by the permitting officer.

(b) **Building permit application requirements.** An applicant for a development concept permit shall submit hard and electronic copies of the following¹²⁷:

(1) A blueprint/plan/drawing showing:

(a) layout of the tiny home community;

(b) name of development and developer;

(c) brief legal description;

(d) parcel numbers;

(e) project boundaries;

¹²⁶Pima County Submittal Checklist for Development Concept Permit ,available at <http://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=62476>.

¹²⁷ *Id.*

(f) parcel/lot boundaries;

(g) title report;

(h) presence of building setbacks, including major streets;

(i) presence of proposed grading limits;

(j) presence of driveway locations;

(k) adjacent streets and developments;

(l) sewer pipes and connections to main sewer lines;

(m) [any other requirements imposed by [township/borough].

(2) Traffic impact study;

(3) Water management plan;

(4) Geotechnical report;

(5) Sewer design report;

(6) Landscaping plan;

(7) A statement describing proposed construction methods along with the names and addresses of any contractors hired.

(8)[any other requirements imposed by
[township/borough].

(b) **Duration of development concept permit.** A development concept permit shall be valid for [three years] from the date of issuance until the completion of construction of the tiny homes within the community.

(c) **Development concept permit fee.** The development concept permit fee shall be [\$3,000] and must be paid at the time of submission of permit application to the permitting officer.

The development concept permit fee shall be reduced to [\$2,500] upon a finding by the permitting officer that the construction and development plans comply with green building standards.

Section 506. **Appeals.**

(a) The grant or denial of a permit may be appealed in writing by the applicant or other aggrieved party to the Board within [30] business days of receipt of notice of the grant or denial.

(b) The aggrieved party shall be given an opportunity for a hearing within [60] days.

(c) The decision of the Board, or any decision by the permit officer which is not appealed in accordance with paragraph (a) herein shall be deemed final action.

Section 507. **Fees.**

Fees assessible by the [township/borough] for the administration and enforcement undertaken pursuant to this ordinance shall be established by the Board by resolution from time to time.¹²⁸

Chapter 6

¹²⁸ Lower Paxton Township Ordinance 04-08, § 90-11 (June 15, 2004).

Tiny Home Communities

Section 601. **Community types.**

Tiny home communities must be constructed as either garden communities or park style communities.

Section 602. **Garden communities and park style communities ("Communities").**

(a) **Community Regulations.**

(1) **Lot sizes.** Lot sizes within Communities may not be smaller than [1,800] square feet and may not be larger than [3,600] square feet¹²⁹. A lot may not be larger than [5%] of the entire community square footage.

(2) **Maximum and minimum number of lots.** A garden or park style community shall contain a minimum of [6] lots and a maximum of [50] lots.

(3) **Streets within the garden or park style community.** All streets within a garden or park style community shall be privately owned.¹³⁰

¹²⁹ Proposed minimum and maximum square footage was extrapolated from mobile home community data and reduced proportionately to correlate with the sizes of tiny homes.

¹³⁰ Lower Paxton Township Subdivision and Land Development Ordinance, Mobile Home Park Regulations, Art. 9, § 180-904 (Nov. 1, 2010).

(4) **Pedestrian access.** A tiny home community shall provide pedestrian walks on both sides of the street. Pedestrian walks shall be at least five feet in width. All lots shall be connected to the pedestrian walk with an individual walk at least 36 inches in width. All walks shall be constructed in accordance with [borough/township] specifications.¹³¹

(5) **Lighting.** A community shall provide street lighting fixtures adequately spaced and equipped with luminaries at such mounting heights as will provide average levels of illumination for the safe movement of vehicles and pedestrians at night.

(6) **Uses within garden or park style communities.** No part of any tiny home community shall be used for non-residential purposes, except for such uses that are required for recreation, direct servicing, management, or maintenance of the community.¹³²

(7) **Utility lines within the garden or park style communities.** All power distribution lines, telephone or

¹³¹ *Id.*

¹³² *Id.*

cable servicing the tiny home community shall be installed underground and maintained in accordance with the respective utility company regulating such systems.¹³³

(8) **Refuse handling.** The storage, collection and disposal of refuse in the communities shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution and shall comply with all applicable [township/borough] and state regulations.¹³⁴

(b) **Tiny homes within the communities.**

(1) **Appearance.** A tiny home shall be built to have an appearance in general congruity with the whole community.

(2) **Additional structures on each lot.** Only one additional structure to be utilized for storage (i.e. shed) shall be permitted to be constructed on each lot. Such structure shall not exceed [10%] of the square footage of the tiny home situated on the lot.

¹³³ *Id.*

¹³⁴ *Id.*

(3) **Rental.** A tiny home within a garden or park style community may be rented and occupied by tenants as memorialized in a written lease agreement. A tenant shall adhere to all occupancy and other applicable provisions of this ordinance.

(c) **Establishment of a homeowners' association.**

A homeowners' association may be permitted within the communities. The purpose of a homeowners' association is to provide a common basis for preserving maintaining and enhancing homes and property.

Section 603. **Additional requirements applicable to garden style communities.**

(a) **Applicability.** The following requirements shall be applicable to a garden style community and are to be in addition to and not exclusive of the requirements of Section 602 herein.

(b) **Parking.** A common parking lot shall be provided by the community owner. A minimum of one parking space shall be provided for each tiny home and a minimum of one visitor parking space shall be provided for every three tiny home resident parking spaces. 135

(c) **Centralized common area.** A common open space area shall be maintained by the owner of the community, which shall include usable public spaces such as lawn, gardens, patios, plazas or scenic viewing area. Common tables, chairs and benches shall be placed in the common area and provided by the owner of the community, with all tiny homes having access to it.

Section 604. **Additional requirements applicable to park style communities.**

(a) **Applicability.** The following requirements shall be applicable to park style communities and are to be in addition to and not exclusive of the requirements of Section 602 herein.

¹³⁵ *Id.*

(b) **Parking.** Each home within a Park Style Community shall have a driveway or paved parking area large enough to accommodate two standard-sized vehicles.

(c) **Walkway.** Each home within a Park Style Community shall have a paved walkway leading from the driveway or parking area to the front door or front porch of the home.

Chapter 7

Prohibitions.

Section 701. Tiny homes on wheels.

A tiny home on wheels shall be prohibited for residential purposes in the jurisdiction of [township/borough].

Section 702. Stand-alone tiny homes.

A stand-alone tiny home shall be prohibited from the jurisdiction of [township/borough].

Chapter 8

Applicability.

This ordinance shall apply within the [township/borough] of _____ County, Pennsylvania. From and after the effective date of this ordinance, the use of tiny homes shall be in conformity with the provisions of this ordinance, as well as all other applicable [township/borough] ordinances, enactments, rules, regulations, and permits, including the Municipalities Planning Code ("MPC").^{136,137, 138}

Chapter 9

General Repeal

All other ordinances or parts of ordinances are repealed insofar as they are inconsistent with this ordinance.¹³⁹

¹³⁶ Rapho Township, Lancaster County, Pennsylvania, Zoning Ordinance (Nov. 7, 2013)

¹³⁷ New Freedom Borough, York County, Pennsylvania, Municipal Code § 437 (2012).

¹³⁸ Municipalities Planning Code, Act of 1968, P.L. 805, No. 247

¹³⁹ General repeal, 101 PA ADC § 19.61.

Chapter 10

Severability.¹⁴⁰

The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, the unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared to the intent of the Board of Supervisors of _____ [township/borough] that this ordinance would have been adopted had the unconstitutional, illegal, or invalid sentence, clause or section not been included herein.

Chapter 11

Effective Date

(a) This ordinance shall become effective [60] days after enactment.¹⁴¹

¹⁴⁰ Lower Paxton Township, Dauphin County, Pennsylvania Ordinance 99-08, § 1-14 (Aug. 17, 1999).

¹⁴¹ Rapho Township, Lancaster County, Pennsylvania, Zoning Ordinance § 910 (Nov. 7, 2013)

Chapter 12

Enactment

ENACTED AND ORDAINED THIS _____ DAY OF 20_____.

[Signature Block]