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Jaclyn Troutner

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PAVING A PATH TO INDEPENDENT TINY LIVING: AN INTRODUCTION TO ROADBLOCKS

Jaclyn Troutner*

INTRODUCTION

“Tiny living” is a growing trend in which small-scale, eco-conscious housing is used as an alternative means for homeownership. Tiny homes are smaller than the average detached home with the appearance and character of a traditional free-standing residential home. They are one-story, single-occupant dwellings and usually constructed on a trailer base for towing.¹ State-of-the-art building techniques provide a lower environmental burden and utility cost per square foot.² Due to their smaller size, tiny homes are cheaper with an average price of \$52,000, opening a wider door to home ownership.³ The typical design is to include all the standard amenities and aesthetic elements of the typical single-family home, but with a focus on hyper-efficiency in space utilization, all in about 225 square feet.⁴ The smaller size provides opportunity for a luxury aesthetic detached from the traditional enclosed apartment structure or condominium.

Tiny homes are single-occupant dwellings, meaning they are stand-alone structures with permanent provisions for sleeping, cooking, eating, living, and sanitation.⁵ However, tiny homes are substantially smaller than a typical house, leading to confusion as to how to classify the structure within a jurisdiction’s existing building codes and zoning restrictions.⁶

CODING FIT FOR HABITATION

Jurisdictions adopt and enforce codes to provide a minimum consistency of safety to protect building occupants and nearby properties from fire, structural failure, or building use.⁷ Jurisdictions adopt codes that define structural requirements for dwellings such as ceiling height and egress minimums.⁸ The development of codes and classification types are usually done by third-party regulatory authorities, such as the International Code Council or the International Conference of Building Officials, at no cost to municipalities.⁹ A jurisdiction can adopt code classification standards drafted by the third party regulatory authorities for local application.¹⁰ As a model code, the International Building Code (“IBC”) is intended to be adopted in accordance with the laws and procedures of a governmental jurisdiction, and some jurisdictions amend the code in the process to reflect local practices and laws.¹¹

CODING A MODEL SOLUTION

The code applicable to a dwelling will depend on how the jurisdiction chooses to classify the dwelling. For example, if a jurisdiction classifies a dwelling as a single-family home, the residential code requirements for a single-family home will apply, resulting in ceiling and doorway height minimums that are impractical, if not impossible, to accommodate in the tiny home’s small size.¹²

The Tiny Home Appendix Q Coding Classification was a direct response to this problem by tiny home enthusiasts, architects, and other stockholders.¹³ The 2018 International Residential Code created Appendix Q for jurisdictional adoption.¹⁴ Appendix Q defines a tiny home as a dwelling that is 400 square feet or less in floor area, excluding lofts.¹⁵ Appendix Q specifically tailors its set of code requirements to ensure that the house is safe for occupancy.¹⁶ Appendix Q incorporates many typical code requirements, such as multiple egress locations, minimum calling heights, and handrails, while relaxing some otherwise specific requirements to acknowledge the home’s smaller size.¹⁷

Appendix Q was then modified in 2021 to create Appendix AQ, which is to be included in the 2021 International Residential Codes.¹⁸ However, a jurisdiction that adopted Appendix Q does not automatically adopt the changes from appendix AQ—the jurisdiction must vote to adopt Appendix AQ as a replacement for Appendix Q.¹⁹

Individual jurisdictions in thirty states have adopted Appendix Q as a dwelling classification type.²⁰ However, some jurisdictions have restrictions on where an Appendix Q tiny home can be placed or have additional coding modifications. Tiny homeowners may need to adhere to municipal utility connection and concrete foundation requirements rather than refusing to tie their tiny home to the land.²¹ Though such a tolerance may pose an annoyance for individuals who wish to live “off grid,” the existence of tiny recognition with code requirements places the existence of the classification on the table for future amendments.

Adopting tiny home codes and classifications in one jurisdiction can be a building block to the spread of tiny home acceptance throughout a state or area.²² In the same way that states can model their building codes from international code organizations, municipalities can model their own adoption off those before them.²³ Finally, tiny owners sacrificing an entirely

* J.D. Candidate, American University Washington College of Law, 2023.

off-grid lifestyle can help speed the process of classification allowance in general zones.

CLASSIFICATION AND ZONING ROADBLOCKS

Zoning regulations may address many issues that could affect the placement or use of a tiny home. This could include what type of structure classification can be placed on a lot, or lot size, sewage, water, and electrical requirements.²⁴ Even when up to a municipality's code, dwellers struggle to find a location to “park” their tiny home due to zoning restrictions.

Most jurisdictions do not recognize a tiny home as an independently permanent home. For example, some jurisdictions permit a tiny home to exist on a plot of land so long as it is classified as an Accessory Dwelling Unit (“ADU”). The ADU classification requires that the tiny home be on a plot of land that is shared with a “primary residence” (such as a traditional single family home) that is owned by the owner of the tiny home.²⁵ For example, tiny homes in Washington, D.C. can only be used as an ADU on the land of a larger, self-owned property.²⁶ The ADU requirement is contrary to the actual goal of a tiny home—instead of owning one small home on a self-owned plot of land, the tiny home owner must have two homes with the tiny home being akin to a guest house rather than an independently recognized dwelling. Even if a deal is made with a neighbor, the ADU classification leaves tiny home owners dependent on renting land and at the will of the property owner, both greatly reducing the independence and cost-savings desired in tiny home ownership.

Other jurisdictions classify tiny homes as Recreational Vehicles (“RV”) due to the standard practice of building the tiny home on a towable trailer base. The RV classification is problematic as it is not unusual for residentially zoned lots to have ordinances that limit the amount of time an individual can “park” an RV on a property.²⁷ An unlucky tiny homeowner may be accused of “camping” because their “RV” has been on a residential plot for too long, and thereby risk eviction from their own land.²⁸

Tiny home communities, where all dwellings in a neighborhood are tiny homes, have sought commercial zoning as RV campgrounds so as to incorporate long-term tiny home parking without classification concerns for neighborhood residents. In this method, a trailer-based tiny home is classified as an RV to be parked on commercially zoned land tolerable to “camping.” Lakeview, Oregon, has an RV campground that offers tiny home lots of land for purchase at \$12,500, or for rent at \$400 a month.²⁹ Communities such as Tiny Tranquility in Portland, Oregon, offer plots of land for long term rental around \$700 a month.³⁰ Though rental of land may be attractive to travelers, it is contradictory to long-term investment of homeownership by perpetuating housing costs that would have been otherwise spent in apartment rental or mortgage. Land rental is a non-permanent solution to individuals that wish to put down roots in a single area and keep their cost of living down. Renting also limits the usage rights of the land itself—the owner of the land may restrict the renter from modifying the landscaping of the land.

SPECIALIZED ZONING

Creating tiny home-specific zoning is possible, but it requires a greater number of coordinating elements, such as public interest, available and useable land, and possibly private-developer interest. In the same way that a skyscraper would visually stick out amongst farmland, a tiny home may visually disrupt a suburban neighborhood of homes of a similar, “standard” size and appearance.³¹ Single Room Occupancy (“SRO”) cottage communities in Washington, Alaska, New York, and Ohio have found success in using specific land zoning for SRO-coded dwellings to allow tiny living without disrupting the communities already present.³²

In Washington, tiny homes have found success under a new category of dwelling unit—SRO units.³³ The Olympia, Washington Municipal Code defined SROs as “[a] single room occupancy sleeping unit [which] must be at least 120 square feet and have unencumbered access to both sanitary, classification as an “facilities and a full, common kitchen facility.”³⁴ Olympia designated “SRO specific land” with specialized code and appearance regulations. Similarly, Quixote Village of Olympia used the SRO definition to create a specific zoning density requirement—thirty SROs for a two-acre plot maximum, keeping population and property tax rates up for the area.³⁵ The definition of SRO and “SRO specific land” may assist more uniform zoning requirements between states to ease tiny dweller’s needs for “parking” their homes.


INCORPORATING TINY HOMES AS INDEPENDENT HOUSING IN EXISTING ZONING

Formally classifying tiny homes as an alternative and equivalent means of living to traditional housing offers tiny homeowners a method to live in a tiny home within municipalities without violating housing codes.

Some municipalities have welcomed the tiny home as an independent residential dwelling through the adoption of specialized classification. The municipality of Spur, Texas classified tiny homes as a “Tiny Home on Wheels” (THOW) and allowed THOW’s to be parked on residential lots. The THOW recognition incorporates the reality that most tiny homes are manufactured to include wheels and be towable but have a visual and functional character closer to a traditional home than an RV or camping trailer. Using the THOW classification as a foundation, Spur then included enforced requirements for THOW parking on independently owned plots in Spur, such as connection to city utilities, cement foundation, removal of the home’s wheels once on the lot, and a driveway leading to a public-access road.³⁶ The wheel removal and driveway requirements recognize the mobile origins of the tiny home, while enforcing incorporation of the home into the rest of the city through utility connection. As “the first tiny home friendly town,” Spur encourages the sale of private lots specifically for individuals to park their tiny home.³⁷ Spur’s encouragement of tiny living is a response to its interest in population and economic growth.³⁸

In contrast, the town of Briley, Michigan has created a simpler approach. Briley created a classification for tiny homes as an “Economy Efficient Dwelling.”³⁹ The Economy Efficient Dwelling must be no smaller than 240 square feet with a minimum height of twelve feet, and a minimum length of twenty feet.⁴⁰ The dwelling must also adhere to Michigan building and sanitary codes and qualify for a certificate of occupancy.⁴¹ The Economically Efficient Dwelling Classification is the most comparable classification to the traditional single family home, recognizing the tiny home as an independent structure while codifying the small character of the home.

CONCLUSION

No matter the method, local level tiny home friendly ordinances will only occur if there is current and longstanding interest within the jurisdiction. There is little financial or community incentive for municipalities to initiate the effort of introducing, polling, and considering code and zoning adjustment if there is not a locally high demand. It will be up to tiny home enthusiasts to organize and encourage municipalities to adopt codes that recognize the tiny home as an independent dwelling and permit the tiny home to independently exist on residentially zoned land. 

ENDNOTES

¹ Paul Lagasse, *The International Residential Code has a Big Vision for Tiny Homes*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>; see also *2020 Profile of Home Buyers and Sellers*, NAT’L ASS’N OF REALTORS 7 (Nov. 2020), <https://cdn.nar.realtor/sites/default/files/documents/2020-profile-of-home-buyers-and-sellers-11-11-2020.pdf> (for comparison, the average home is 1,900 square feet with three bedrooms and the average trailer home is 400 square feet); *Affordable Alternative or Passing Fad? A Study of the ‘Tiny Home’ Market in 2021*, PORCH RSCH. (Aug. 4, 2021), <https://porch.com/advice/state-of-tiny-home-market> (touting the tiny home’s reduced carbon footprint); see also Mike Pfeiffer, *Adoptable Appendices in the Residential International Code for Cob Construction and Tiny House*, BLDG. SAFETY J. (Sept. 27, 2021), <https://www.iccsafe.org/building-safety-journal/bsj-technical/adoptable-appendices-in-the-international-residential-code-for-cob-construction-and-tiny-houses/> (stating Tiny homes are typically constructed in a factory setting — often called “off-site” or “modular” construction — and transported to the site and placed on a permanent foundation).

² Maria Saxton, *When People Downsize to Tiny homes, They Adopt More Environmentally Friendly Lifestyles*, THE CONVERSATION (Apr. 10, 2019, 6:49 AM), <https://theconversation.com/when-people-downsize-to-tiny-houses-they-adopt-more-environmentally-friendly-lifestyles-112485> (finding the ecological footprint of the average tiny home is 3.87 global hectares (gha); a traditional home’s footprint is 8.4 gha, Tiny Homes emit an average of 2,000 pounds of greenhouse gasses each year; traditional homes emit 28,000 pounds.).

³ See *Affordable Alternative or Passing Fad? A Study of the ‘Tiny Home’ Market in 2021*, PORCH RSCH. (Aug. 4, 2021), <https://porch.com/advice/state-of-tiny-home-market>.

⁴ See I Khajehzadeh & B Vale, *How New Zealanders Distribute Their Daily Time Between Home Indoors, Home Outdoors and Out of Home*, 12 KÖTUITUI: N.Z. J. OF SOC. SCI. ONLINE 17, 26-7 (July 25, 2016), <https://www.tandfonline.com/doi/citedby/10.1080/1177083X.2016.1187636?scroll=top&needAccess=true> (acknowledging that the majority of people spend time in the kitchen, personal bedroom, or around the television, resulting in wasted resources on construction, and energy consumption is double what a family would need if their house only had the rooms that they actually use); see also *Affordable Alternative or Passing Fad? A Study of the ‘Tiny Home’ Market in 2021*, PORCH RSCH. (Aug. 4, 2021), <https://porch.com/advice/state-of-tiny-home-market> (stating that the average size of a tiny home in the United States is 225 feet).

⁵ Matt Bailey et al., *Applying Building Codes to Tiny Homes*, NAT’L FIRE PROT. ASS’N. 7 (Mar. 2017), <https://www.nfpa.org/-/media/Files/White-papers/WhitePaperTinyHomes.ashx>.

⁶ See *id.* (emphasizing that codes do not recognize tiny homes as accessory structures for dwelling purposes and that this can cause code-related issues).

⁷ *Id.* at 4.

⁸ THE INT’ BLDG. CODE, *Adoptions of the IBC*, INT’L CODE COUNCIL, <https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/ibc/> (last visited Nov. 7, 2021) (The *International Building Code* is in use or adopted in 50

states, the District of Columbia, Guam, Northern Marianas Islands, New York City, the U.S. Virgin Islands and Puerto Rico).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Paul Lagasse, *The International Residential Code has a Big Vision for Tiny House*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>.

¹³ Paul Lagasse, *The International Residential Code has a Big Vision for Tiny House*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>.

¹⁴ *Id.*

¹⁵ *2018 International Residential Code*, Appendix AQ Tiny House §§ AQ101-05 (2018),

¹⁶ Paul Lagasse, *The International Residential Code has a Big Vision for Tiny Home*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>.

¹⁷ *2018 International Residential Code*, Appendix AQ Tiny House §§ AQ101-05 (2018), https://codes.iccsafe.org/content/IRC2018/appendix-q-tiny-houses?site_type=public (last accessed Nov. 7, 2021).

¹⁸ *2021 International Residential Code*, Appendix AQ Tiny House § AQ106 (2021) <https://codes.iccsafe.org/content/IRC2021P1/appendix-aq-tiny-houses> (adding an Energy Conservation section for the allowable air leakage and ventilation rates) (last accessed Nov. 7, 2021).

¹⁹ *2018 International Residential Code*, Appendix AQ Tiny House §§ AQ101-05 (2018), https://codes.iccsafe.org/content/IRC2018/appendix-q-tiny-houses?site_type=public (last accessed Nov. 7, 2021).

²⁰ See generally *Appendix Q: State by State*, TINY HOME INDUSTRY ASS’N. (August 1, 2019) <https://tinyhomeindustryassociation.org/appendix-q-state-by-state/> (providing a state-by-state analysis of jurisdictions that adopted Appendix Q Codes).

²¹ See *id.*; see also Paul Lagasse, *The International Residential Code has a Big Vision for Tiny House*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>.

²² Paul Lagasse, *The International Residential Code has a Big Vision for Tiny House*, BLDG. SAFETY J. (Feb. 24, 2018), <https://www.iccsafe.org/building-safety-journal/bsj-dives/the-international-residential-code-has-a-big-vision-for-tiny-houses/>.

²³ THE INT’ BLDG. CODE, *Adoptions of the IBC*, INT’L CODE COUNCIL, <https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/ibc/> (last visited Nov. 7, 2021).

²⁴ Matt Bailey et al., *Applying Building Codes to Tiny Homes*, NAT’L FIRE PROT. ASS’N. 4 (Mar. 2017), <https://www.nfpa.org/-/media/Files/White-papers/WhitePaperTinyHomes.ashx>.

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