



Staff Report

File #: LN-185

PLANNING AND ZONING BOARD

Meeting Date: October 27, 2021

Accessory Dwelling Unit Code Amendment Section 155.4303

Request: Zoning Code Text Amendment to Section 155.4303
P&Z# N/A
Owner: City of Pompano Beach
Project Location: N/A
Folio Number: N/A
Land Use Designation: N/A
Zoning District: N/A
Commission District: N/A
Agent: N/A
Project Planner: Jean E. Dolan, AICP, CFM

Summary:

The City, Broward County and the State of Florida have adopted policies to encourage the development of accessory dwelling units as a source of affordable housing. The incentive being offered is to allow accessory dwelling units to be built without the need to calculate density for those units as long as the property owner records an affidavit that runs with the land that ensures that the accessory unit will be rented at affordable rates to individuals or a family that meet the definition of extremely low; very low; low; or moderate income. The purpose of this Code Amendment is to implement the State, County and City policies on allowing affordable accessory units to be approved without a density calculation.

The State enabling legislation, Chapter 163.31771:

163.31771 Accessory dwelling units.-

(1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to extremely-low-income, very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for extremely-low-income, very-low-income, low-income, or moderate-income persons.

(2) As used in this section, the term:

(a) "Accessory dwelling unit" means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

(b) "Affordable rental" means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for extremely-low-income, very-low-income, low-income, or moderate-income persons.

(c) "Local government" means a county or municipality.

(d) "Low-income persons" has the same meaning as in s. 420.0004(11).

(e) "Moderate-income persons" has the same meaning as in s. 420.0004(12).

(f) "Very-low-income persons" has the same meaning as in s. 420.0004(17).

(g) "Extremely-low-income persons" has the same meaning as in s. 420.0004(9).

(3) Upon a finding by a local government that there is a shortage of affordable rentals within its jurisdiction, the local government may adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

(4) If the local government adopts an ordinance under this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.

(5) Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply toward satisfying the affordable housing component of the housing element in the local government's comprehensive plan under s. 163.3177(6)(f).

History.-s. 2, ch. 2004-372; s. 2, ch. 2006-69; s. 16, ch. 2010-5; s. 13, ch. 2011-189.

The Broward County Land Use Plan:

Broward County Land Use Plan, Permitted Uses Section:

RESIDENTIAL USE

The areas designated for residential use on the Future Broward County Land Use Map (Series) are intended primarily for dwellings, but other land uses related to a residential environment, including neighborhood shopping centers, neighborhood parks and schools may also be appropriate therein.

The permitted uses in areas designated residential are as follows, as deemed appropriate by the local jurisdiction:

1. Dwelling units, subject to the density limits for a parcel as designated on the Future Broward County Land Use Plan Map (Series) or certified local land use plan map and as explained in the following subsection entitled "Residential Density."

Accessory dwelling units are permitted in single-family residential areas per and subject to

Florida Statutes Chapter 163.31771.

CITY OF POMPANO BEACH COMPREHENSIVE PLAN POLICIES:

Policy 01.07.16

Through ongoing updates to the land development regulations provide criteria/use specific standards for accessory dwelling units and exempt these units from density calculations.

Policy 01.13.05

Encourage affordable housing opportunities, through various mechanisms such as the utilization of reduced lot size for dwelling units, construction of zero lot line and cluster housing, vertical integration of residential units with non-residential uses, the allowance of accessory dwelling units, or through other mechanisms proven effective in increasing the affordable housing stock.

Plan Implementation Requirements:

A. Residential

Each parcel of land within an area which is designated in a Residential land use category by the Land Use Plan must be zoned in a zoning district which permits any one or more of the following uses, but not other uses:

- 1. Residential dwelling units at a maximum density that does not exceed the maximum gross residential density designated for the parcel of land by the Land Use Plan Map.
 - a. Accessory dwelling units are permitted in single-family residential areas per and subject to Florida Statutes Chapter 163.31771 without the need to calculate density.
 - b. A studio or efficiency unit no greater than 500 square feet in size is considered a half-unit for density calculation purposes.

The affidavit that will be signed by the property owner to take advantage of these policies is attached along with the most current household income limits for Broward County.

Proposed Zoning Code Amendment:

155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

A. Accessory Dwelling Unit

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
A	A	A	A	A	A	A	A	A	A	A					

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
						A						A		A	A	A

2. Definition

An accessory dwelling unit is an ancillary or secondary living unit to a single-family dwelling use that may contain a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit. ~~For purposes of determining maximum density, an accessory dwelling unit shall be considered a half dwelling unit.~~

3. Standards

An accessory dwelling unit is allowed as an accessory use to a single-family dwelling, subject to the following standards:

- a. An accessory dwelling unit is permitted only as accessory to, and on the same lot as, a single-family dwelling, and are not permitted as accessory to a two-family dwelling, multifamily dwelling, or mobile home dwelling.
- b. Not more than one accessory dwelling unit per lot is permitted and the accessory dwelling unit may not encroach on any required setback for the principal structure.
- c. An accessory dwelling unit may be within or attached to the principal dwelling (e.g., a downstairs apartment), or exist within or as a detached structure (e.g., an apartment above a detached garage or a guesthouse). An accessory dwelling unit attached to the principal dwelling shall have an operative interconnecting door with the principal dwelling, and shall have a principal access only from the side or rear yard of the principal dwelling.
- d. The use of a mobile home, recreational vehicle, or a similar vehicle as an accessory dwelling unit is prohibited.
- e. ~~The floor area of an accessory dwelling unit shall not exceed the lesser of~~ may be up to 1,000 square feet or 25 percent but may not exceed of the floor area of the principal dwelling.
- f. At least one, but no more than two, off-street parking spaces shall be provided for an accessory dwelling unit (in addition to the off-street parking required for the principal dwelling).
- g. For purposes of determining maximum density, an accessory dwelling unit shall be considered a half dwelling unit, however, accessory dwelling units that are committed to be restricted to be affordable housing per Chapter 163.31771, Florida Statutes, are permitted without the need to calculate density. An affidavit that attests to the fact that the unit will only be rented at an affordable rate to extremely-low-income, very-low-income, low-income, or moderate-income person or persons is required to be submitted as part of the building permit requirements if the unit is to be approved without a density calculation.

Staff Recommendation:

Staff recommends the following motion to approve this zoning code text amendment to Section 155.4303 for Accessory Dwelling Units:

File #: LN-185

The Board recommends approval of the proposed accessory dwelling unit code amendment as it finds the amendment consistent with Florida Statute 163.31771 and both the Broward County Land Use Plan and the City of Pompano Beach Comprehensive Plan.



City of Pompano Beach
Department of Development Services
Planning and Zoning Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
Phone: 954.786.4668 / 954.786.4633 Fax: 954.786.4666

Affidavit:
Accessory Dwelling Unit

State of Florida}
County of Broward}

I _____ am the owner of the single family home located at
_____ in the City of Pompano Beach, FL.

I acknowledge that I have been advised of and understand 155.4303(A) [Accessory Dwelling Units] as well as Florida Statutes 163.31771 [Accessory Dwelling Units]. I understand for the purposes of calculating density, the City of Pompano Beach Zoning Code, considers Accessory Dwellings to be a half dwelling unit. I also understand Florida Statutes 163.31771 Accessory Dwelling Units enables municipalities to allow Accessory Dwelling Units as Affordable Rentals. Therefore, if it is rented as an Affordable Rental, with a restriction, the dwelling unit shall not be considered for the purposes of calculating density.

In accordance with Florida Statutes, I hereby attest the Accessory Dwelling Unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons. With this commitment, the accessory dwelling unit shall not be considered half of a dwelling unit for density purposes.

Florida Statutes 163.31771 Accessory dwelling units

(a) "Accessory dwelling unit" means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

(b) "Affordable rental" means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for extremely-low-income, very-low-income, low-income, or moderate-income persons.

(c) "Local government" means a county or municipality.

(d) "Low-income persons" means one or more persons or a family, the total annual adjusted gross income of which does not exceed 80% of the median adjusted gross income for households within Broward County.

(e) "Moderate-income persons" means one or more persons or a family, the total annual adjusted gross income of which does not exceed 120% of the median adjusted gross income for households within Broward County.



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(f) "Very-low-income persons" means one or more persons or a family, the total annual adjusted gross income of which does not exceed 50% of the median adjusted gross income for households within Broward County.

(g) "Extremely-low-income persons" means one or more persons or a family, the total annual adjusted gross income of which does not exceed 30% of the median adjusted gross income for households within Broward County.

This affidavit, and all obligations and restrictions are intended to be and shall be construed as covenants running with the land, which will bind the current property owner and any heirs, successors and assigns. This restriction shall be recorded in the Broward County Public Records and may not be waived without the written consent of the City of Pompano Beach.

BEFORE ME, the undersigned authority, personally appeared _____(PRINT NAME) who after being duly sworn, deposes and says: That I am the person whose signature appears below, and that the information I have provided above in this document is true and correct.

Signature: _____

SWORN TO AND SUBSCRIBED before me this ____ day of _____ 20 ____, in Pompano Beach, Broward County, Florida.

Notary Public
Seal of Office

Notary Public, State of Florida

(Print Name of Notary Public)

_____ Personally Known

_____ Produced Identification

Type of identification Produced: _____



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Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL
PROGRAMS

View Entire
Chapter

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**Affidavit:
Accessory Dwelling Unit**

jurisdiction, the local government may adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

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(5) Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply toward satisfying the affordable housing component of the housing element in the local government's comprehensive plan under s. [163.3177\(6\)\(f\)](#).

History.—s. 2, ch. 2004-372; s. 2, ch. 2006-69; s. 16, ch. 2010-5; s. 13, ch. 2011-189.

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Exhibit 1 (Revised)

**BROWARD COUNTY
2021 INCOME AND RENT LIMITS**

The following chart contains the current income and rent limits for 2021. The income and rent limits are published annually by the U.S. Department of Housing and Urban Development (HUD and Florida Housing Finance Corporation (FHFC). Projects considered for assistance will be required to comply with the limits posted at the time the County funds are being offered.

HUD Released: 4/1/2021

FHFC Posted: 4/1/2021

Effective: 4/1/2021

Broward County Median Income is \$73,400

<i>Income Limit by Number of Persons in Household</i>	<i>Percentage Category</i>			
	50%	60%	80%	120%
1	\$30,800	\$36,960	\$49,300	\$73,920
2	\$35,200	\$42,240	\$56,350	\$84,480
3	\$39,600	\$47,520	\$63,400	\$95,040
4	\$44,000	\$52,800	\$70,400	\$105,600
5	\$47,550	\$57,060	\$76,050	\$114,120
6	\$51,050	\$61,260	\$81,700	\$122,520
7	\$54,600	\$65,520	\$87,300	\$131,040
8	\$58,100	\$69,720	\$92,950	\$139,440
9	\$61,600	\$73,920	\$98,560	\$147,840
10	\$65,120	\$78,144	\$104,192	\$156,288

BROWARD COUNTY RENT LIMIT BY NUMBER OF BEDROOMS IN UNIT						
Percentage Category	0	1	2	3	4	5
50%	770	825	990	1,144	1,276	1,408
60%	924	990	1,188	1,373	1,531	1,690
80%	1,232	1,320	1,585	1,830	2,042	2,253
120%	1,848	1,980	2,376	2,746	3,063	3,381