



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

10/6/2022

Subject:

Public Hearing, Re: Amendments to Sec. 62-1844, Brevard County Code of Ordinances, Criteria for Tiny House and Tiny House on Wheels (Second Reading)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to considering the attached ordinance revision to Section 62-1844 relating to tiny homes.

Summary Explanation and Background:

At its August 4, 2022 Zoning meeting, the Board issued legislative intent and permission to advertise certain amendments to Sec. 62-1844, Brevard County Code of Ordinances, in order to effectuate the following changes:

1. Creating a common maximum floor area of 750 sq. ft. for tiny homes, across all classifications that already allow for them as a Permitted Use with Conditions
2. Allowing for multiple tiny homes in a mobile home park (TR-3)
3. Removing the requirement to gain notarized approval from the owners of abutting developed property

The attached ordinance implements this direction. Because this amendment makes changes to zoning conditional uses, two public hearings are required under Fla. Stat. Sec. 125.66(4)(b).

On September 7, 2022, the Building Construction Advisory Committee heard the proposed ordinance and unanimously recommended approval.

On September 12, 2022, the Local Planning Agency heard the request and unanimously recommended approval.

On September 13, 2022, the Board of County Commissioners conducted the first public hearing and unanimously approved the proposed ordinance.

Clerk to the Board Instructions:

Once filed with the State, please return a copy of the Ordinance to Planning and Development.



October 7, 2022

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item H.7., Second Public Hearing on Amendments to Section 62-1844, Brevard County Code of Ordinances for Criteria for Tiny House and Tiny House on Wheels (THOW)

The Board of County Commissioners, in regular session on October 6, 2022, adopted Ordinance No. 22-31, amending Section 62-1844, Brevard County Code of Ordinances, by creating a maximum floor area of 750-Square feet, exempting lots in TR-3 zoning from being restricted to a single tiny house or THOW, and removing the requirement for approval of the owners of abutting property when seeking a tiny house or THOW permit. Enclosed is the fully-executed Ordinance that has been filed with the State of Florida.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

Encl. (1)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 10, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-31, which was filed in this office on October 7, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

ORDINANCE NO. 2022- 31

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS," CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 5, SECTION 62-1844, "TINY HOUSE OR TINY HOUSE ON WHEELS (THOW)," BY CREATING A UNIFORM MAXIMUM FLOOR AREA OF 750 SQUARE FEET, EXEMPTING LOTS IN TR-3 ZONING FROM BEING RESTRICTED TO A SINGLE TINY HOUSE OR THOW, AND REMOVING THE REQUIREMENT FOR APPROVAL OF THE OWNERS OF ABUTTING PROPERTY WHEN SEEKING A TINY HOUSE OR THOW PERMIT; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, (hereinafter "the Board") finds that there is a critical need for affordable housing in Brevard County; and

WHEREAS, the Board finds that one potential avenue for alleviating the strain of a lack of affordable housing is the development of tiny houses or tiny houses on wheels ("THOW"); and

WHEREAS, the Board desires to simplify regulations regarding tiny houses and THOW, in order to encourage development of such structures; and

WHEREAS, the Board wishes to clarify that more than one tiny house and/or THOW is allowable on TR-3 (mobile home park) zoned lots; and

WHEREAS, the Board finds that requiring the approval of abutting property owners when seeking a permit for a tiny house or THOW is an unnecessary barrier to development.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Section 62-1844. – Tiny house or tiny house on wheels (THOW).

Tiny house or tiny house on wheels (THOW) shall meet the following criteria:

- (1) Tiny house or tiny house on wheels (THOW) use is only allowed on lots that meet the current minimum lot area of their respective zoning classification.
- (2) Contain a minimum living area of 120 square feet up to a maximum floor area of 750 square feet.

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON OCTOBER 7, 2022.

- (3) Except in TR-3 zoned lots, when placed upon a lot as the primary residential structure, the tiny house or THOW shall be the only primary residential structure allowed upon that lot.
- (4) When a tiny house or THOW is permitted as the primary residential structure, accessory structures shall be allowed to utilize a floor area up to 600 square feet and to be exempt from the size limitation noted in subsections 62-2100.5(1)(b) and (1)(d).

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code, or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

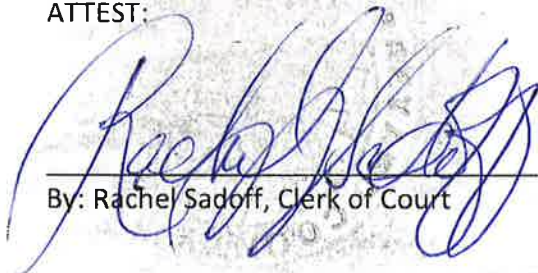
SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; that the sections of this ordinance may be renumbered or re-lettered; and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

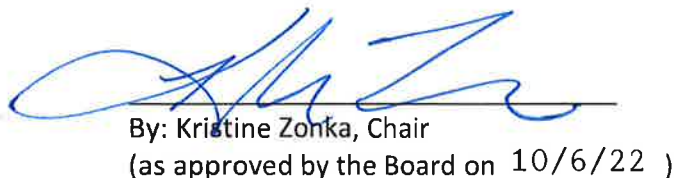
DONE, ORDERED, AND ADOPTED in Regular Session, this 6 day of Oct., 2022.

ATTEST:



By: Rachel Sadoff, Clerk of Court

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



By: Kristine Zonka, Chair
(as approved by the Board on 10/6/22)

ORDINANCE NO. 2022-_____

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS," CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 5, SECTION 62-1844, "TINY HOUSE OR TINY HOUSE ON WHEELS (THOW)," BY CREATING A UNIFORM MAXIMUM FLOOR AREA OF 750 SQUARE FEET, EXEMPTING LOTS IN TR-3 ZONING FROM BEING RESTRICTED TO A SINGLE TINY HOUSE OR THOW, AND REMOVING THE REQUIREMENT FOR APPROVAL OF THE OWNERS OF ABUTTING PROPERTY WHEN SEEKING A TINY HOUSE OR THOW PERMIT; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, (hereinafter "the Board") finds that there is a critical need for affordable housing in Brevard County; and

WHEREAS, the Board finds that one potential avenue for alleviating the strain of a lack of affordable housing is the development of tiny houses or tiny houses on wheels ("THOW"); and

WHEREAS, the Board desires to simplify regulations regarding tiny houses and THOW, in order to encourage development of such structures; and

WHEREAS, the Board wishes to clarify that more than one tiny house and/or THOW is allowable on TR-3 (mobile home park) zoned lots; and

WHEREAS, the Board finds that requiring the approval of abutting property owners when seeking a permit for a tiny house or THOW is an unnecessary barrier to development.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Section 62-1844. – Tiny house or tiny house on wheels (THOW), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Tiny house or tiny house on wheels (THOW) shall meet the following criteria:

- (1) Tiny house or tiny house on wheels (THOW) use is only allowed on lots that meet the current minimum lot area of their respective zoning classification.

- (2) Contain a minimum living area of 120 square feet up to a maximum floor area of 750 square feet.:
- ~~a. Five hundred square feet for the TR-3 zoned lots;~~
- ~~b. Six hundred square feet for the PA, RRMH-1, RRMH-2.5, and RRMH-5 zoned lots;~~
- ~~c. Seven hundred fifty square feet for the GU, AGR, AU and AU(L) zoned lots~~
- (3) ~~Except in TR-3 zoned lots,~~ When placed upon a lot as the primary residential structure, the tiny house or THOW shall be the only primary residential structure allowed upon that lot.
- (4) When a tiny house or THOW is permitted as the primary residential structure, accessory structures shall be allowed to utilize a floor area up to 600 square feet and to be exempt from the size limitation noted in subsections 62-2100.5(1)(b) and (1)(d).
- ~~(5) Before zoning approval is granted for a tiny house or THOW building permit, the applicant/owner shall submit notarized approval forms from each abutting developed property owner to the planning and development department.~~

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code, or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; that the sections of this ordinance may be renumbered or re-lettered; and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: Rachel Sadoff, Clerk of Court

By: Kristine Zonka, Chair
(as approved by the Board on _____)

BREVARD *County*
BOARD OF COUNTY COMMISSIONERS

RECEIVED

AUG 11 2022

BY:

FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 837-2001

Fax: (321) 264-8972

Kimberly.Powell@brevardclerk.us



August 5, 2022

MEMORANDUM

TO: Tad Calkins, Planning and development Director

RE: Item J.1., Legislative Intent and Permission to Advertise Amendments to Sec. 62-1844, Brevard County Code of Ordinances for Criteria for Tiny Homes and Tiny Homes on Wheels (THOW)

The Board of County Commissioners, in regular session on August 4, 2022, granted legislative intent and permission to advertise amending Section 62-1844 to reflect the changes as delineated in the requested action section of the Agenda Report; and authorized sending this Item back to the appropriate Advisory Boards before coming back to the Board of County Commissioners. Enclosed is the Agenda Report.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Each Commissioner
Robert VanVolkenburgh
Finance
Budget

PRINTED ON RECYCLED PAPER



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Miscellaneous

J.1.

8/4/2022

Subject:

Legislative Intent and Permission to Advertise Amendments to Sec. 62-1844, Brevard County Code of Ordinances RE: Criteria for Tiny Homes and Tiny Homes on Wheels

Fiscal Impact:

Cost of advertisement of associated ordinance amendments

Dept/Office:

District 3 Commission Office

Requested Action:

Legislative intent and permission to advertise is sought in amending Sec. 62-1844, as follows:

- (2) Contain a minimum living area of 120 square feet up to a maximum floor area of 750 square feet:
 - a. ~~Five hundred square feet for the TR-3 zoned lots;~~
 - b. ~~Six hundred square feet for the PA, RRMH-1, RRMH-2.5, and RRMH-5 zoned lots;~~
 - c. ~~Seven hundred fifty square feet for the GU, AGR, AU and AU(L) zoned lots~~
- (3) Except in TR-3 zoned lots, ~~When~~ placed upon a lot as the primary residential structure, the tiny house or THOW shall be the only primary residential structure allowed upon that lot.
- (4) When a tiny house or THOW is permitted as the primary residential structure, accessory structures shall be allowed to utilize a floor area up to 600 square feet and to be exempt from the size limitation noted in subsections 62-2100.5(1)(b) and (1)(d).
- (5) ~~Before zoning approval is granted for a tiny house or THOW building permit, the applicant/owner shall submit notarized approval forms from each abutting developed property owner to the planning and development department.~~

Summary Explanation and Background:

Currently, the TR-3 (mobile home park) classification does not generally allow for site-built single family detached structures, except for tiny homes. Because of this, those wishing to construct site-built tiny homes on TR-3 zoned property are limited to no more than 500 sq. ft. in minimum floor area, as outlined in Sec. 62-1844, Brevard County Code of Ordinances.

This differs from other classifications in which the Board has allowed for tiny homes as a Permitted Use with Conditions. For example, while a person willing to build a tiny home is seemingly constrained to a floor area no more than 600 square feet in RRMH-1, a builder is able to build a "detached dwelling unit" in that zoning class at sizes beginning at 600

square feet of floor area, rendering this of little or no constraint to a builder.

It is suggested that the Board amend Sec. 62-1844(2) to create a common maximum floor space for tiny homes across all zoning classifications where it is a Permitted Use with Conditions of 750 sq. ft. This would serve to allow for the construction of a tiny home between 120 sq. ft and 750 sq. ft. on TR-3, while also simplifying the code to create a common definition of a tiny home across all zoning classifications that allow for them.

Furthermore, Sec. 62-1844(3) could be interpreted to preclude more than one tiny home in a mobile home park zoned TR-3, which would be inconsistent with the purpose of allowing tiny homes in this zoning class.

Finally, requiring those that have property that the Board has judged as appropriate for tiny homes to gain their neighbors approval to fully exercise their rights is inconsistent with other uses within our Code and serves as an unreasonable and irrational barrier to development.

In summary, legislative intent and permission to advertise is sought to make the following 3 changes to Sec. 62-1844, Brevard County Code of Ordinances:

1. Creating a common maximum floor area of 750 sq. ft. for tiny homes, across all classes that already allow for them as a Permitted Use with Conditions
2. Allow for multiple tiny homes in a mobile home park (TR-3)
3. Remove the requirement to gain notarized approval from the owners of abutting developed property

To be clear, these changes do not add tiny homes to any zoning class, it merely simplifies the conditions to have a tiny home in those classes this Board already approved.

Clerk to the Board Instructions: