



ACCESSORY DWELLING UNITS

REPORT TO THE FLORIDA LEGISLATURE



SUBMITTED BY THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS
THOMAS G. PELHAM, SECRETARY

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EXECUTIVE SUMMARY

In 2004, the Florida Legislature revised the Local Government Comprehensive Planning and Land Development Regulation Act (also known as the Growth Management Act) to include a section (§163.31771, Florida Statutes) to promote the use of accessory dwelling units as an affordable rental option for very-low-, low- and moderate-income residents. The Section was amended in 2006 to include extremely-low-income residents.

Section 163.31771(2)(a), F.S., defines an accessory dwelling unit as “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.” Accessory dwelling units are also known as accessory apartments, garage apartments, granny flats, and mother-in-law flats.

Recognizing a shortage of affordable rentals within many jurisdictions, the Legislature encouraged local governments to adopt ordinances to authorize the construction of accessory dwelling units within zoning districts that allow single family residential use. Further, these ordinances would require that the building permit application for an accessory dwelling unit be accompanied by an affidavit from the applicant attesting that the unit will be rented at a rate affordable to the targeted populations. Additionally, accessory dwelling units allowed by such an ordinance would apply toward satisfying the affordable housing component of the housing element in the local government’s comprehensive plan under §163.3177(6)(f), F.S.

The Department of Community Affairs’ *2007 Accessory Dwelling Units Report to the Florida Legislature* evaluates the effectiveness of using accessory dwelling units to address a local government’s shortage of affordable housing and reports the number of ordinances adopted by local governments and the number of accessory dwelling units that have been created under the provisions of §163.31771, F.S.

To evaluate the effectiveness of the statute's implementation and the use of accessory dwelling units to address local governments' shortage of affordable housing, the Department conducted an online survey, online research, and telephone interviews. In addition, the Department examined how accessory dwelling units have been used by communities in other states.

The Department's research encompassed 290 local governments, 61% of the total number of municipalities and counties in Florida. These communities are home to 75% of the state's population. They also include the urban areas where the legislative findings indicate: "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 (§163.31771, F.S.)."

The Department determined:

- » There are 43 communities where accessory dwelling units are authorized, but the governing ordinance does not further the aims of §163.31771, F.S. (i.e., there are no provisions that limit the accessory dwelling units rentals to extremely-low- to moderate-income persons).
- » Local zoning codes vary with respect to how an accessory dwelling unit may be used. In some communities, rental of accessory dwelling units is prohibited or occupancy is limited to family members or employees of the primary homeowner. There are 109 communities where accessory dwelling units are authorized but are not available for rental or where occupancy is limited to single-family residence.
- » There are 131 communities that do not authorize or reference accessory dwelling units as an allowable or conditional use in the zoning code.
- » Local zoning codes vary regarding whether accessory dwelling units are permitted versus conditional uses. Conditional use zoning is a technique that can afford a community the flexibility to assess a development's design and location as a means to limit potential adverse impacts to the permitted (or use of right) activities, but because conditional use applications are reviewed on a case-by-case basis the process may not provide applicants as much certainty as a permitted use zoning process. It should be noted that zoning codes may vary in order to reflect the needs and desired outcomes of the particular community.

The Florida Legislature enacted §163.31771, F.S., so that accessory dwelling units could be used in conjunction with rental rate limitations that would make the units affordable for extremely-low- to moderate-income persons, thereby addressing deficits in the stock of affordable rental housing. **However, the Department's research indicates that only the City of Key West has adopted an ordinance that contains provisions to limit accessory dwelling unit rental rates for the targeted populations.**

The Department conducted an online survey of local government planning and housing officials, the private sector, and housing advocates. The survey generated 326 responses. Fifty-six percent of public sector officials responded favorably about providing accessory dwelling units and supporting them in the future. About 64% of the private sector (builder and developers) currently supports or may support accessory dwelling units in the future.

The Department also conducted research to determine the number of accessory dwelling units that were created under the provisions of §163.31771, F.S. The Department received 86 responses. Twelve of the 86 government respondents provided figures (including zero). A total of 55 accessory dwelling units have been approved and constructed.



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INTRODUCTION

In 2004, the Florida Legislature enacted Section 163.31771, F.S., to promote the use of accessory dwellings units as a tool to help local communities address deficits in the supply of affordable rental housing for very-low-, low-, and moderate-income residents. The section was amended in 2006 to include the extremely-low-income population.

This *2007 Accessory Dwelling Units Report to the Florida Legislature* is submitted to meet the requirements of §163.31771(6), F.S., which directs the Department of Community Affairs (Department) to:

- » Evaluate the statute's effectiveness in prompting the use of accessory dwelling units to address a local government's shortage of affordable housing; and
- » Report the number of ordinances adopted by local governments and the number of accessory dwelling units created.

In enacting §163.31771, F.S., the Legislature found that the median price of homes in Florida had increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. [See Appendix I, which contains the statutory language.]

The Legislature also found that the cost of rental housing had increased steadily and that these costs now often exceed what is affordable to extremely-low-income, very-low-income, low-income, or moderate-income persons, and that this has resulted in a critical shortage of affordable rentals in many urban areas in the state. [See Appendix II for income definitions.] Further, this shortage of affordable rentals constituted a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature found that encouraging the permitting of accessory dwelling units in single-family residential areas to increase the availability of affordable rentals for extremely-low-income, very-low-income, low-income, or moderate-income persons serves an important public purpose.

ACCESSORY DWELLING UNITS: DEFINITIONS AND INTENDED PURPOSES

Section 163.31771(2), F.S., defines an accessory dwelling unit (ADU) as “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.” Accessory dwelling units are also known as accessory apartments, garage apartments, granny flats, or mother-in-law flats.

The Legislature encouraged local governments to adopt ordinances pursuant to §163.31771, F.S. Additionally, the building permit application for an accessory dwelling unit would be accompanied by an affidavit from the applicant attesting that the unit will be rented at a rate affordable to an extremely-low-income, very-low-income, low-income, or moderate-income person.

While §163.31771, F.S., envisions accessory dwelling units as a tool to address deficits in affordable rental units for extremely-low- to moderate-income residents, they also can provide additional community benefits. According to the Transportation and Land Use Coalition (a partnership of more than 90 groups working to provide residents of the Bay Area of California with transportation choices and affordable housing), accessory dwelling units are enabling municipalities and counties around the nation to attain the following benefits:

» **Creating cost-effective affordable housing.**

Accessory dwelling units can increase the supply of affordable housing, while providing homeowners the benefit of extra income. This can reduce the number of homeowners who are cost-burdened, defined by the U.S. Department of Housing and Urban Development (HUD) as households that pay more than 30% of income for rent or mortgage costs. Accessory dwelling units also provide affordable housing at little or no public expense since the cost of construction is borne by the homeowner rather than government subsidies.

» **Encouraging mixed-income, stable neighborhoods and developing more efficiently.**

Accessory dwelling units can be an effective tool to limit urban sprawl and infrastructure demands because additional land for development is not needed and they use existing infrastructure (such as water, sewer, roads, and other utilities). Additionally, accessory dwelling units can be integrated into a community resulting in the development of mixed-income neighborhoods rather than enclaves of affordable housing.

» **Promoting balanced transportation and land use planning.**

Because accessory dwelling units do not require additional land, they can be incorporated into built-out neighborhoods more easily than other forms of housing and can, therefore, be located in older, centrally located neighborhoods. These are closer to employment opportunities, making it easier to get to work without needing a car. This may increase the rates of carpooling, transit ridership, biking, and walking and reduce traffic congestion on local streets. Higher residential densities created by accessory dwelling units make public transit more feasible in neighborhood areas.

OVERVIEW OF EVALUATION METHODOLOGY

The Department employed a multi-prong approach to determine how Florida's municipalities and counties have implemented §163.31771, F.S. Specifically, the research sought to: 1) identify which communities have adopted accessory dwelling unit ordinances; 2) determine whether there is support for accessory dwelling units as a tool for increasing a community's affordable housing stock; and 3) where accessory dwelling unit ordinances have been adopted, determine how many units have been approved for construction and how many have been built.

Online Survey

The Department conducted an online survey of local government planning and housing officials, housing advocacy organizations, Regional Planning Councils, and builders/developers from the private sector to determine potential issues and concerns regarding accessory dwelling units as well as which communities may have authorized the use of accessory dwelling units. This survey also included a determination of levels of support for accessory dwelling units, number of units permitted and number of units built.

Online Research

The Department conducted online research, using the Municipal Code Corporation's index of zoning (land development) codes and local government websites to determine whether an accessory dwelling unit ordinance had been adopted, its date of adoption, and the specific ways the community has attempted to address the use of accessory dwelling units. Addendum I presents the relevant sections of local code for all communities for which information could be obtained.

Telephone Survey

The Department conducted a telephone survey of local planning and building officials to corroborate and support the online research. Additional information

was requested of these officials regarding the number of accessory dwelling units approved and constructed.

Data were compiled from more than 290 local governments, i.e., information from more than 61% of Florida's 476 local governments was received. These local governments represent about 75% of Florida's population. Because the Legislature was concerned about rental housing in urban areas, the data collected offers a legitimate basis for drawing conclusions about statewide policy.

The Department organized the information gathered through these approaches into four categories that reflect the degrees, from greatest to least, to which local governments have implemented codes pursuant to §163.31771, F.S.:

- 1 Accessory dwelling units are authorized and further the aims of §163.31771, F.S. (i.e., the governing ordinance contains provisions to limit accessory dwelling unit rental rates so they will be affordable for extremely-low- to moderate-income persons);
- 2 Accessory dwelling units are authorized but do not further the aims of §163.31771, F.S. (i.e., the governing ordinance does not contain provisions to limit accessory dwelling unit rental rates so that they will be affordable for extremely-low- to moderate- income persons);
- 3 Accessory dwelling units are authorized but are not available for rental (i.e., accessory dwelling units are authorized for residential use, but their use is limited to a "guest house" or for family members or employees of the primary homeowner); and
- 4 Accessory dwelling units are not authorized or referenced as an allowable or conditional use in the zoning code.

Appendices III and IV present this categorization for all communities reviewed.

FINDINGS

The Department's research indicates the following regarding the implementation of §163.31771, F.S.:

- » There is strong support among local housing and planning officials and the private sector for using accessory dwelling units as an affordable, rental option. However, only one local government has in place an ordinance

that furthers the aims of §163.31771, F.S. (i.e., the governing ordinance contains provisions to limit accessory dwelling unit rental rates so they will be affordable for extremely low- to moderate- income persons);

- » A review of codes and ordinances throughout the state as reported by the Municipal Code Corporation revealed that accessory dwelling units without the rental restrictions envisioned in §163.31771, F.S., are authorized around the state (see Addendum I).
- » There are local government zoning codes that authorize accessory dwelling units, but preclude the units from being used for rental;
- » The majority of communities have not adopted an accessory dwelling unit ordinance.
- » Differences exist among local government officials in the interpretation and application of §163.31771, F.S.

EVALUATION OF EXISTING ZONING CODES

The Florida Legislature enacted §163.31771, F.S., as a tool for local governments to address deficits in affordable, rental housing. Prior to the passage of §163.31771, F.S., planning law and practice afforded local governments the ability to pass ordinances governing the use of accessory structures. Accessory dwelling units are used in Florida by family members of the residents of the primary structure, as guesthouses, and as residences for employees of the primary household. They are also used as rental units for persons who may not be related to the residents of the primary household. Additionally, accessory dwelling units are often one of several uses defined by the zoning code as accessory structures, which include but are not limited to carports, docks and piers, gazebos and cabanas, and tool sheds. This array of differing needs and uses is reflected in the wide variety of ways in which accessory dwelling units are treated by zoning codes.

Through review of these codes the Department determined the following:

- » One community, the City of Key West, has adopted an ordinance that contains rental rate limitations so that accessory dwelling units will be affordable for extremely-low- to moderate-income persons.
- » Forty-three communities have adopted accessory dwelling unit ordinances but do not limit rental rates.
- » Local zoning codes vary with respect to the potential user of an accessory dwelling unit. In some communities, rental of an accessory dwelling unit is prohibited or occupancy is limited to family members or employees. There are 109 communities that allow accessory dwelling units but restrict them from being used as rental units.

- » There are 131 communities where accessory dwelling units are neither authorized nor referenced as an allowable or conditional use in the zoning code.
- » The codes also vary regarding whether accessory dwelling units are deemed permitted versus conditional uses. [Because conditional uses are reviewed on a case-by-case basis, homeowners wishing to build an accessory dwelling unit may not be certain their application will be approved, and this uncertainty can have the potential effect of reducing the number of applicants.]

ONLINE SURVEY RESULTS

The Department conducted online and telephone surveys of public and private (developers/builders) professionals within Florida and received 326 responses. The highest percentage of respondents (over 40%) was in the “Local Government Planning/Growth Management Departments” category. Table 1 summarizes the categories respondents used for self-identification.

TABLE 1: CHARACTERIZATION OF RESPONDENTS

Category	Percentage of Total Respondents
City Planning/Growth Management Department	28.4%
County Planning/Growth Management Department	12.3%
County Housing Department	10.3%
Consultant	8.4%
Regional Planning Council	7.4%
City Housing Department	6.8%
Other (Non-Profit)	5.8%
Housing Advocacy Organization	3.5%
Environmental/Growth Management Advocacy Organization	3.2%
Builder/Developer	2.6%
City Elected Official	2.6%
Legal	2.6%
Other (Public Sector)	1.6%
Other (Private Citizen)	1.3%
County Elected Official	1.3%
Architecture	1%
Other (For-Profit)	1%

Table 2 describes the levels of support for accessory dwelling units. Twenty-four percent of local government respondents “currently support” accessory dwelling units, which is less than the level of support indicated by either housing officials (31%) or the private sector representatives (56%). Conversely, local government respondents had the highest percentage “not supporting” accessory dwelling units (13%), in contrast to the private sector (12%) and housing officials (3%). However, 32% of the local government respondents indicated that they “may provide or support accessory dwelling units in the future.” Housing officials comprised the highest percentage (28%) of respondents who “did not know” whether they would support accessory dwelling units. These findings suggest there is opportunity to expand the statute’s reach through education and training to both public and private sector practitioners.

TABLE 2: LEVEL OF SUPPORT FOR ACCESSORY DWELLING UNITS

Sector	Currently Provide/Support	May Provide or Support in the Future	Will Not Provide or Support in the Future	Did Not Know/No Response
Local Government	24.2%	31.9%	13.2%	17.6%
Housing Officials	30.8%	25.6%	2.6%	28.2%
Private Sector	55.8%	9.3%	11.6%	20.9%

The majority of housing officials and local governments (57% and 56%, respectively) responded favorably about currently providing accessory dwelling units and supporting accessory dwelling units in the future. A higher percentage of the private sector respondents (65%) currently supports accessory dwelling units and may support them in the future. This indicates at least some recognition of the potential effectiveness of accessory dwelling units as an affordable housing tool.

A total of 86 local government officials responded to the prompts that asked: “How many accessory dwelling unit units have been approved since the accessory dwelling unit ordinance was approved?” and “How many of those units have been constructed since the accessory dwelling unit ordinance was approved?” Only 14% (12) of the government officials reported any figure (including zero units) for both questions. The 12 respondents reported an aggregate of 55 units both approved and subsequently constructed.

The data regarding the number of accessory dwelling units approved and constructed raises two issues. The low response rate (only 14%) by local government officials to the two specific questions could be an indicator of wider problems: the respondent not feeling comfortable sharing the information, the respondent not knowing the figures, or that the figures do not exist. Based upon the telephone

conversations with local government practitioners, the third problem is the most likely: governments simply do not maintain this type of information. Section 163.31771(6), F.S., mandates a report documenting the number of accessory dwelling unit ordinances passed in addition to the number of units produced as a result of the ordinances. There is a disconnection between the legislative language and the monitoring process currently implemented by local governments (if one exists at all). The absence within the statute of an expressed method of data collection leaves local governments in the situation reflected by the survey results: they simply do not know. Secondly, the data show a 100% correlation between the number of approved accessory dwelling units and the number of units actually built. Any inference from this relationship should be carefully considered given the low response rate of these two particular questions.

DISCUSSION

The Department's research suggest that strong support exists for using accessory dwelling units as an affordable rental housing option, but local governments have not adopted ordinances with rental restrictions pursuant to §163.31771, F.S. The research also reveals several issues:

Implementation of Statewide Affordable Housing Initiatives Requires Targeted Technical Assistance and Monitoring

While progress toward achieving the legislative intent of §163.31771, F.S., has been limited, the Department's research indicates local governments are considering accessory dwelling unit ordinances.

An option for the Department to consider is technical assistance to communities as they conduct their Evaluation and Appraisal Reports, update their Housing Elements and begin to research and develop accessory dwelling unit ordinances. The technical assistance program should be directed toward county and municipal elected officials, planning commission members, property owners, developers/builders, and citizens. The content of the training should be flexible in response to the differing information needs of stakeholders. A review of accessory dwelling unit ordinances in Florida indicated that local governments may need additional information to address issues such as:

- » **Level of service and concurrency:** Some ordinances permit residential accessory dwelling units provided they do not create any additional stress on infrastructure. These ordinances appear to create contradictory outcomes, since common planning guidelines assign trip generation rates for residential development as well as define its impacts on potable water, central sewer, solid waste, and schools.

- » **Density tabulations:** Some ordinances explicitly identify how density will be calculated (e.g., one accessory dwelling unit is equivalent to 0.5 dwelling units) while in other communities where ordinances are silent regarding density are using “technical memoranda” to interpret that an accessory dwelling unit does not count toward density. These varying standards may need to be addressed in the overall context of Chapter 163, Part II, F.S., which directs local governments to prepare a Future Land Use Map as part of the local comprehensive plan. The Future Land Use Map establishes land use categories, and all categories are allocated a maximum density (for residential uses) or intensity (for non-residential uses). The Future Land Use Map is implemented by land development codes that must be consistent with the comprehensive plan. In communities where accessory dwelling units are not assigned a density, it may be possible that more residential development than is authorized by the Future Land Use Map may be constructed, which would not be consistent with the provisions of Chapter 163, Part II, F.S.
- » **Impact fee determinations:** While some ordinances contain impact fee waivers, others are silent on the issue. Additionally, the Department’s research identified communities where there are equity concerns (i.e., deliberations regarding whether an accessory dwelling unit should be assessed an impact fee equal to a single-family residence and how to ensure coordination among all taxing entities with jurisdiction regarding how accessory dwelling unit impact fees or exemptions will be applied).

Training for citizens should address negative perceptions about increases in density and how accessory dwelling units can be incorporated into a community without adverse impacts to property values. Builders and developers may need training regarding how to redesign site plans so they address guidelines that are common to accessory dwelling unit ordinances in Florida, such as proximity to property lines and the primary residence.

For example, communities in California and Washington have established online “how-to guides” intended to aid communities by providing technical assistance. This type of tool, coupled with training forums and other techniques, may be considered as an approach to educate constituents about the potential effectiveness of accessory dwelling units.

The Rental Income Guidelines in §163.31771(4), F.S., May Be Perceived to Create Impediments to Effective Implementation

Ordinances adopted pursuant to the section may be perceived as requiring local governments to monitor the locations of available accessory dwelling units and rental agreements. The potential cost of these activities may be a factor why so few ordinances have been adopted pursuant to §163.31771, F.S.

The Department should work with the Florida Legislature to determine the desired outcome regarding accessory dwelling units and what is the best method for achieving this outcome. This determination should include an assessment of the best use of Department and local government resources. As written, §163.31771, F.S., places emphasis on ensuring, via an affidavit from the applicant, that accessory dwelling unit ordinances adopted pursuant to the section are made available to extremely low- to moderate-income persons. This provision would require some form of monitoring by local government. In many areas of the country, housing professionals consider the size of accessory dwelling units to be a factor that will guide the rental rate and make the units affordable to low- to moderate-income persons, so more emphasis is placed on educating and training about passing ordinances that authorize the use of accessory dwelling units.

The Permissive Nature of §163.31771(4), F.S., Does Not Require Local Governments to Affirm Use or Monitor Its Effectiveness in Bringing Units Online.

Section 163.31771(4), F.S., states: “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.”

As noted above, many local governments do not appear to have a system for tracking and monitoring accessory dwelling units approved and constructed in their communities. Through technical assistance, the Department may help communities develop adequate tracking systems. These systems could be established through the local planning or building department or in coordination with existing systems for housing programs, such as the State Housing Initiative Partnership (SHIP) Program, the Community Development Block Grant (CDBG) Program, and the HOME Investment Partnership Program.

APPENDIX I

Section 163.31771, Florida Statutes

Section 163.31771, Florida Statutes: 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(10).
 - e** “Moderate-income persons” has the same meaning as in s. 420.0004(11).
 - f** “Very-low-income persons” has the same meaning as in s. 420.0004(15).
 - g** “Extremely-low-income persons” has the same meaning as in s. 420.0004(8).

- 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).
- 6 The Department of Community Affairs shall evaluate the effectiveness of using accessory dwelling units to address a local government's shortage of affordable housing and report to the Legislature by January 1, 2007. The report must specify the number of ordinances adopted by a local government under this section and the number of accessory dwelling units that were created under these ordinances.

History.--s. 2, ch. 2004-372; s. 2, ch. 2006-69.

APPENDIX II

Income Definitions

§420.0004(8), Florida Statutes (F.S.): “Extremely-low-income persons” means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state.

§420.0004(15), F.S.: “Very-low-income persons” means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

§420.0004(10), F.S.: “Low-income persons” means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

§420.0004(11), F.S.: “Moderate-income persons” means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

APPENDIX III

List of Communities That Permit Accessory Dwelling Units

Accessory Dwelling Units PERMITTED				
	City/County	Source	Districts Permitted	Misc.
1	Alachua County	Article IV, Sec.404.24	RE-1, R-1aa, R-1a, R-1b, and R-1c districts, located within the estate residential	
2	Bonita Springs	Barbara Barnes-Buchanan, Assistant City Manager	All residential districts	"Encourages the use of accessory dwelling units as a tool"
3	Bushnell	Denise Lee, Code Compliance Officer	All residential districts	Accessory use only permitted as a special exception
4	Edgewater	Darren Lear, Director of Development Services	R-4 and R-5	
5	Fort Lauderdale	Section 47-19, Sec 47-19.2(A)	RS-8, RD-15, RC-15, RM-15, RML-25, RMM-25, RMH-25, RMH-60	
6	Fort Pierce	Matthew Margotta, Director- Planning Department	All residential districts	Primarily for the group and nursing home uses
7	Fernandina Beach	Article V, 126-413(6)	In all residential areas	Garage apartment
8	Gainesville	Division 2, 30-54(1)	RH-1 and RH-2	
9	Islamorada	Division 4, Sec. 30-765(a)	RL, RC (residential conservaiton)	Caretaker's unit, an affordable housing unit allowed for accessory use
10	Juno Beach	Damian Peduto, Director- Planning Department	Residential districts only	Very rare that it [accessory apartments] becomes an affordable housing tool
11	Jupiter	Division 5, 27- 990.9.1.2(c) and 9.1.3(c)	Mixed-use district (RL and RM)	
12	Key West	Division 10, Sec. 122-1470		"Accessory Unit Infill"; targeted specifically for low-very-low- income residents
13	Fort Myers Beach	Article IV, 118-585(b)(1)		Garage apartment

Accessory Dwelling Units PERMITTED				
	City/County	Source	Districts Permitted	Misc.
14	Hilliard	Lisa Purvis, Town Clerk	All residential zones	Servant's quarters; must use a separate utility meter
15	Holly Hill	Doug Gutierrez, Director of Community Development	All residential districts	
16	Homestead	Article IV, Sec. 30-397(table)	R2,R3, R4 and B1 (upon City Council approval)	Garage apartment
17	Lake Helen	Dan Findell, City Administrator	All residential districts	Owner of property must reside in principle unit
18	Lakeland	Bruce Kistler, Manager of Current Planning	City-specific sub districts including the historical district	Allowable through a conditional use only
19	Lake County	Chapter X, 10.01.05(A)	Agricultural and residential districts	Impact fees are paid as if the accessory unit were a separate dwelling unit
20	Longwood	Paul Sizemore, Director-Planning Division	Multi-family only	Predicts a clearer accessory policy after the finish of EAR update
21	Indian Shores	Lawrence Nayman, Building Official	All residential districts	
22	Marianna	Article IV, Sec. 4-2.1(2)	Single family residential districts	Granny flats or domestic quarters
23	Mary Esther	William "Pinky" Bradley, Director of Community Development	All residential districts	Accessory structures must be constructed on a separate lot
24	New Smyrna Beach	Mark Rakowski, Director - Development Services	Higher density and new urbanist districts	Allowable only as a special exception
25	New Port Richey	Chapter 12, 12.07(1)	All single family districts	Accessory apartment must be located within the principle unit
26	North Port	Maureen Doyle, Planner II	Only in multi-family districts	
27	Oak Hill	Jiles Smith, Development Regulator Administrator	R-1, R-2, R-3, R-4	Accessory use only permitted though a special exception; no section of the code prohibits renting
28	Ocoee	Article 5, 5-13(B)	All residential districts	Permitted only for "non-commercial" use

Accessory Dwelling Units PERMITTED				
	City/County	Source	Districts Permitted	Misc.
29	Orlando	3A, Sec. 58-500	All one-family districts, including the Designed Community district (3M, Sec. 58.611)	Accessory apartments
30	Panama City	Article IV, Sec.104-92	Permitted in all MU districts and single family (except RLD-1 and RLD-2	Accessory apartments are allowed within a single-family home
31	Paxton	Susan Davis, City Clerk	All residential zones	
32	Pensacola	Article V, Sec.12-2-52	R-1AAAAA, R-1AAAA, R-1AA, R-1A	
33	Pinellas County	Division 3, 138-1346(a)(9)	All single family districts	Sec. 138-1346 specifically addresses affordable housing permitting procedures
34	Plant City	Julie Ham, Senior Planner	R-1A	Garage apartments
35	Sanford	Schedule B	See Table	
36	Sarasota	Division 9, Sec.VII-903(6)	RSM-9 and all multi-family zones	
37	Shalimar	Tom Burns, Town Manager	Limited to multi-family districts	Garage apartments
38	Stuart	Chapter VII, Sec.7.01.01(E)	Single family districts	
39	St. Augustine	Mark Knight, Director-Planning and Building Department	Mixed-use districts only	Accessory apartments
40	Sumter County	Division 5, Sec.13-364(a)(2)(c)	All single family district	
41	Tallahassee	Article VII, Sec.10-412(1)	All zoning districts(10-412(b))	
42	West Palm Beach	Article III, 94-303(b)(1)	SF14	Accessory apartments
43	Wildwood	Robert Smith, Director-Planning Department	R-1 and R-E	Currently making amendments to permit accessory use in R-1 and R-E
44	Winter Haven	Sean Byers, Senior Planner	All single-family districts	“Not a whole lot of requests”; have gotten some “resistance” from neighbors permitting accessory dwelling units

APPENDIX IV

List of Communities That Do Not Permit Accessory Dwelling Units

Accessory Dwelling Units NOT PERMITTED			
	City/County	Source	Misc.
1	Altamonte Springs	Marty Boble, Planning and Development Review Specialist	
2	Anna Maria	Article VI, Sec. 114-412(b), Confirmed by Kevin Donohue, Building Official	
3	Apopka	Clark Sprinkle, Planning Administrator	Limited to granny flats that cannot be rented
4	Atlantic Beach	Division 7, Sec. 24-151(b)(1)(c)	
5	Atlantis	Chapter 15, Sec. 15-5(2)(a)	
6	Bay Harbor Islands	Article I, Sec. 23-12(14)	
7	Belleair	Division 3, Sec. 74-82	Limited to guest cottages and servant's quarters
8	Boca Raton	Larry Damato, Zoning Technician	Limited to guest quarters that cannot be rented
9	Cape Coral	Peggy Swollen, Customer Service Representative	Limited to mother in law apartments without a kitchen
10	Center Hill	Diane Lamb, City Clerk	
11	Cocoa	Article XIII, Sec. 6(A)	
12	Coleman	Clay Godwin, City Clerk	Accessory uses only permissible through temporary hardship basis
13	Coral Springs	Erik Powers, Zoning Technician	Only in RS-1, no kitchen facilities
14	Cooper City	Article V, 23-81(e)	Accessory apartments cannot be rented
15	ChIPLEY	Jim Lassiter, Engineer Inspector	Mainly for the use of the elderly or convalescent group homes
16	Clearwater	Michael Delk, Director- Planning Department	
17	Crescent City	Bob Chayer, Code Enforcement Director	"Grey area", renting of accessory dwelling units happens but is not permitted within the code

Accessory Dwelling Units NOT PERMITTED

	City/County	Source	Misc.
18	Davie	Division 2, 12-33(A)(9)	Limited to guest houses or cottages with no kitchens facilities
19	DeLand	Mike Holmes, Director- Planning Department	
20	Deltona	Article VIII, 827.02(2)	Limited to servant's quarters
21	Destin	Jerry Mucci, Director- Community Development Services	Allows for accessory dwelling units, but are not permitted to be rented; accessory workforce housing units are recommended in a current report by Mucci and his department
22	Dundee	Marisa Barmby, Planing Manager	Limited to apartments without a bathroom facility
23	Ebro	Linda Marlow, Town Clerk	
24	Florida City	William Kiriloff, Director- Community Development Department	Not "applicable" to the city
25	Fort Meade	Mellisa Wessel, Permiting Technician	
26	Fort Walton Beach	Malcom Foley, Zoning and Building Supervisor	Accessory apartments are being considered as part of the next LDR update
27	Frostproof	Keith Strickland, Building Inspector	Financially not in a position to permit accessory dwelling units
28	Golden Beach	Division 11, Sec. 66-252	
29	Greenacres	Thomas Lanahan, Director of Planning and Engineering Department	There does exist some non-conforming, grandfathered accessory units within city limits
30	Hallandale	Division 2, 32-242(e)	
31	Haines	Richard Greenwood, Director- Community Development Department	
32	Hastings	Pam Shores, Clerk Manager	
33	Hialeah	Ulysses (last name withheld), Zoning Inspector	Limited to mother in law apartments
34	Hialeah Gardens	Mirtha Gonzalez, Chief Zoning Official Building Department	
35	Highland Beach	Article IV, 30-66	

Accessory Dwelling Units NOT PERMITTED

	City/County	Source	Misc.
36	Hollywood	Andrew Dickson, Planner	Limited to apartments without kitchen facilities, cannot be rented
37	Holmes Beach	Bill Brisson, Senior Planner- LaRue Planning and Management Services Inc.	
38	Hypoluxo	Debbie Flick, Deputy Town Clerk	
39	Indian Creek Village	Samuel Kissinger, Village Manager	
40	Indian Rocks Beach	Division 7, Sec. 110-345(b)	Limited to mother in law apartments that cannot be rented
41	Interlachen	Pam Grove, Deputy Town Clerk	Limited to guest houses and servant's quarters
42	Jacksonville	Subpart B 656.403(a)(2)	Limited to guest houses and servant's quarters
43	Key Biscayne	Jud Kurlancheek, Director- Building, Zoning and Planning Department	Limited to garage apartments that cannot be rented
44	Key Colony Beach	Vickie Bollinger, City Clerk	Does not allow for accessory units to be "habitable"
45	Kissimmee	Craig Holland, Director- Development Services	Allows for guest quarters with no cooking facilities
46	LaBelle	Article IV, Sec. 460(e)(1)(a)(13)	Allows for guesthouses in R-1AA
47	Lake Butler	Richard Tillis, City Manager	Only allowed to expand existing building
48	Lake Hamilton	Margaret Freemon, Interim Town Clerk	
49	Lake Mary	John Omana, Director- Community Development	Accessory uses are permitted in A-1 and R-E but are limited to apartments with no kitchen facilities
50	Lake Park	Patrick Sullivan, Director- Community Development	Limited to single family in law flats; cannot be rented
51	Largo	Chapter 10, Accessory Uses	
52	Lantana	David Thatcher, Director- Development Services/Town Planner	
53	Live Oak	Roy Rogers, City Administrator	Guest houses only; cannot be rented
54	Longboat Key	Monica Daigle, Director- Planning, Zoning and Building Department	Limited to guest houses and servant's quarters

Accessory Dwelling Units NOT PERMITTED

	City/County	Source	Misc.
55	Madeira Beach	Paula Cohen, Director- Community Development Department	
56	Maitland	Jacklyn Holt, Planner III	Accessory units are permitted as guest houses for single families, but cannot be rented
57	Medley	Article II, 62-36	
58	Melbourne	Article VII, Sec.1(F) and Sec.2(C)(2)(c)	
59	Miami	Article 9, Sec. 906.1	
60	Miami Beach	Division 4, 4, Sec. 142-1132(a)(2)(c)	
61	Miami Shores	David Dequesto, Director- Planning Department	"Nothing habitable"
62	Miami Lakes	Osdel Larrea, Director- Public Works and Building Compliance	Accessory units must be interconnected; may not have a kitchen facility
63	Miami Springs	Article III, Sec. 150-041,042,043,044(A)(2)	
64	Miramar	Harold Zombeck, Assistant Director- Community Development	
65	Monticello	Division 2, Sec.54-198	Limited to elderly living quarters and servant's quarters
66	Naples	Article II, Sec.56-91(c)(1)	Allows for use of guest unit as a rental unit if it was built prior to 1994
67	Nassau County	Sec. 28.15(D)(2)	Limited to servant's quarters or guest house
68	Neptune Beach	Article V, Sec.27-333	
69	North Bay Village	Paul Gioia, Planning, Building and Zoning Official	"Nothing habitable"
70	North Miami Beach	Thomas Vageline, Director- Community Development	Department struggles with how to calculate accessory dwelling unit density

Accessory Dwelling Units NOT PERMITTED

	City/County	Source	Misc.
71	North Miami	Maxine Calloway, Director-Community Planning and Development	Department is aware of the statute and is planning on adding an accessory dwelling unit section to the next update of the comprehensive plan
72	Okaloosa County	Chapter 7, 7.02.02(B)(3)	Strictly for the use of immediate family and cannot be rented
73	Okeechobee County	2.05.01(A)	Limited to accessory apartments for the elderly
74	Okeechobee City	Division 7, Sec. 90-634	Must be attached to or located within principle structure and cannot be used as a rental unit
75	Orchid	Article I, Sec. 86-7, 8	
76	Palmetto Bay Village	Edward Silva, Building Plan Review	Limited to guest houses without kitchens
77	Perry	Bob Brown, Director- Planning Department	
78	Pembroke Pines	Dean Piper, Zoning Administrator	Accessory dwelling units allowed in agricultural district only
79	Pierson	Debbie Bass, Town Clerk	Accessory unit allowed only for family residents
80	Pinecrest	Jim Holland, Director- Planning and Building Department	Limited to guest houses without kitchens
81	Plantation	Article VIII, 27-639(a)	Limited to garages and servant's quarters
82	Pompano Beach	Sal Titto, Zoning Technician	
83	Ponce Inlet	Peter Grigas, Director- Planning and Zoning Department	
84	Port Orange	Chapter 16, Section 1(d)(4)	
85	Port St. Lucie	Article XI, Sec. 158.217(C)(2)	Limited to only servant's quarters
86	Riviera Beach	Article VI, Sec. 31-542(b)(3)	
87	Royal Palm Beach	Article IV, Sec.26-57(b)(3)	
88	Satellite Beach	Division 2, Sec.30-510(g)	
89	Sewalls Point	Division 2, Sec. 82-242(2)(b)	Limited to staff quarters
90	Sopchoppy	Jackie Lawhon, City Clerk	"No [accessory] requests as of yet"

Accessory Dwelling Units NOT PERMITTED

	City/County	Source	Misc.
91	South Daytona	John Schoch, Director- community Development Department	No rental capability
92	St. Marks	Ethel Jefferson, Administrative Assistant	
93	Sunrise	Article V, 16-118(a)(3)	
94	Sunny Isles Beach	Elena DeCampillo, Planning and Zoning Technician	
95	Sweetwater	Juan Villaba, Zoning Inspector	Accessory dwelling units which are "nothing to be lived in"
96	Tampa	Article VI, 27-126 (1)(c)	Accessory structure may not be separately metered
97	Valparaiso	Article IV, Sec.114-107(1)(f)	
98	Vero Beach	Sec. 61.13(d)(1)	
99	Vernon	Sharon Cobb, City Clerk	
100	Walton County	6.02.01(B)(4)	
101	Wakulla County	Article 1, 6-1(3)(a)	Accessory units may not be occupied as a residence
102	Wausau	Margaret Riley, Town Clerk	
103	Webster	Sarah Sneider, City Clerk	
104	Weston	Chapter 158, 158.57	
105	Williston	Terry Summers, Assistant Zoning Administrator	
106	Wilton Manors	Article 25, Sec. 025-030	
107	Windermere	Sherry Music, Zoning Clerk	Limited to accessory apartments that cannot be rented
108	Winter Garden	Division 8, Sec. 118-1310(a)(4)	
109	Winter Park	Jeff Briggs, Planning Director	Accessory uses limited only to variances within the historic district (only about 1% of the city)

ACCESSORY DWELLING UNITS

REPORT TO THE FLORIDA LEGISLATURE



SUBMITTED BY THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS
THOMAS G. PELHAM, SECRETARY

SEPTEMBER 2007