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## It Takes a Village: Designating "Tiny House" Villages as Transitional Housing Campgrounds

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## IT TAKES A VILLAGE: DESIGNATING “TINY HOUSE” VILLAGES AS TRANSITIONAL HOUSING CAMPGROUNDS

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Ciara Turner\*

### ABSTRACT

*A relatively new proposal to reduce homelessness in the United States involves extraordinarily small dwellings. While the “tiny house” movement is intuitively appealing and has found sporadic success, strict housing codes, building codes, and zoning laws often destroy the movement before it can get off the ground. One possibility for getting around these zoning and building code challenges, without drastic overhauls to health and safety codes, is to create a new state-level zoning classification of “transitional campgrounds.” A new zoning classification would alleviate the issue because campgrounds are consistently subject to less strict building codes, which could permit tiny houses as temporary living quarters. Creating “transitional campgrounds” gives discretion to local level policy makers, allowing for action that reflects the true needs of the local community. In some states, municipalities may be able to implement this proposed regulation directly. With appropriate legislative reform and community support, tiny house villages can be an affordable, alternative temporary housing accommodation option. Part I of this Note discusses the background of the tiny house movement, including an overview of the applicable zoning, building, and housing codes, along with various state laws. Part II explains the difficulties posed by the current regulatory scheme, and Part III proposes a statute designed to alleviate those challenges that could, ideally, be adopted at the state level.*

### I. BACKGROUND

#### A. Introduction

Villages of “tiny houses” are being proposed as affordable alternative housing options—either temporary or permanent—for the nation’s homeless. Dignity Village, for example, began as a tent city and developed into the nation’s first tiny house village because the citizens and leaders of the City of Portland were willing to work with

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the Village to provide more stable and habitable dwellings.<sup>1</sup> The development of Dignity Village teaches critical lessons about these types of communities that successors should consider, including design considerations, the length of time residents should be permitted to live on-site, and the need for longer-term residents to manage the community. Developers of these villages are tasked with working within the current restrictive regulatory structure in order to build these communities, and have typically found that neither state nor local law is particularly welcoming of these small structures.<sup>2</sup> The laws that are the most difficult to change are often state laws. Fortunately though, the bulk of the applicable regulations are at the local level. Each of the few existing tiny house villages provides helpful guidance in specifying the required legal reform. However, these villages continue to face legal challenges in getting approved and maintaining that status, and due to the variations in state law and local needs, no single model could be universally applicable. Still, these legal experiments provide a useful starting point in identifying how to develop such communities, as well as draw attention to where the weaknesses in the law lie.

The appeal of small residences lies in three categories. First, tiny houses can be cost efficient and therefore offer a creative solution to the affordability problem many current and potential shelters face.<sup>3</sup> The difference between the cost of a traditional shelter and a tiny house village can be quite staggering—an unconditioned tiny house could cost as little as a couple thousand dollars, compared to

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1. While the ultimate outcome was positive and provides an example of a successful tiny house village, it would be naive to assume that the political conditions would support the transformation of all tent cities to designated campgrounds, even if the model statute were implemented at the state level. As a result, the creation of Dignity Village cannot be considered a viable route to widespread tiny house villages. *See infra* Part.IA(3) and accompanying text.

2. The current regulatory scheme makes it virtually impossible to legally build a tiny house. *See, e.g.*, Alyse Nelson, *Legalizing the Tiny House*, SIGHTLINE INST. (June 27, 2016, 6:30 AM), <http://www.sightline.org/2016/06/27/legalizing-the-tiny-house/>; Emily Nonko, *Tiny House Zoning Regulations: What You Need to Know*, CURBED (Sept. 22, 2016, 11:30 AM), <http://www.curbed.com/2016/9/22/13002832/tiny-house-zoning-laws-regulations>; Melia Robinson, *Tiny Homes Could Help Solve San Francisco's Housing Crisis—Except for One Big Problem*, BUS. INSIDER (Feb. 2, 2016, 10:43 AM), <http://www.businessinsider.com/sf-tiny-house-village-2016-1>. There is no clear understanding of why the current laws are the way they are; theories range from positing that tiny houses are simply new concepts that do not fit into old laws, to the more accusatory idea that some minimum square footage requirements were actually designed to keep “undesirable” mobile homes out of certain localities. *See, e.g.*, *Borough v. Shomo*, 289 A.2d 513, 518 (Pa. Commw. Ct.1972) (declaring a city ordinance requiring a minimum square footage unconstitutional as it served no purpose other than to discriminate against mobile home dwellers).

3. *See, e.g.*, *What Is The Tiny House Movement?*, TINY LIFE, <http://thetinylife.com/what-is-the-tiny-house-movement/> (last visited May 8, 2017).

the hundreds of thousands that would be required to build a traditional shelter.<sup>4</sup> The low cost of creating tiny houses also provides incentives for aid organizations; such organizations are becoming increasingly prevalent and have been looking for ways to legally create this new housing model, particularly given features such as shared kitchen spaces due to its cost efficiency and community building.<sup>5</sup> Second, because tiny houses can cost substantially less than a traditional home—though a range of options are available for every budget—many families are gaining financial independence by building mortgage-free tiny houses.<sup>6</sup> Lastly, beginning in the construction process and continuing during its use as a residence, tiny houses can result in cost-savings for the owners in addition to a smaller environmental footprint.<sup>7</sup> Aside from the general benefit of using fewer building materials, common environmentally-friendly practices tiny houses often incorporate include composting toilets and greywater recycling systems.<sup>8</sup> And because these dwellings have such miniscule floor areas, they require far less maintenance and upkeep than traditional homes.<sup>9</sup>

### 1. Tiny Houses: A Primer

The regulatory challenges facing tiny houses are immediately apparent even in defining the term: there is no standardized definition of what makes a house “tiny” but generally, any dwelling smaller than 400 square feet will be considered “tiny.” In practice, tiny houses are often constructed on a trailer base, limiting their

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4. GINGER SEGEL, CMTY. FRAMEWORKS, TINY HOUSES: A PERMANENT SUPPORTIVE HOUSING MODEL 3 (2015), <http://www.communityframeworks.org/ws-main/docs/FINAL%20Tiny%20Homes%20White%20Paper%20March%202015.pdf>. It should be noted that these unconditioned tiny houses are only feasible in consistently mild climates where insulation is not required, and this cost also does not include any sanitary facilities. *See id.* Well-constructed tiny houses intended to be permanent structures with half-baths can have a bottom line cost of over one hundred thousand dollars, as was the case with Quixote Village. *See id.* A flexible designated campground statute would permit localities to decide what type of structure is necessary for their climate and needs.

5. *See e.g., id.*

6. *See, e.g., What Is The Tiny House Movement?*, TINY LIFE, <http://thetinylife.com/what-is-the-tiny-house-movement/> (last visited May 8, 2017).

7. *Id.*

8. *See, e.g., Gabriella, Why Tiny Houses Can Save the Earth Infographic*, TINYHOUSEBUILD (Oct. 26, 2014), <http://tinyhousebuild.com/tiny-houses-infographic/>. Note that many localities have sanitary system connection requirements that prohibit these environmentally friendly options.

9. *See, e.g., Tiny House Movement: Affordable Housing Revolution*, TINYHOUSETALK, <http://tinyhousetalk.com/tiny-house-movement/> (last visited May 8, 2017).

square footage to between 100 to 200 square feet.<sup>10</sup> These homes usually include a kitchen, bathroom, living area, and sleeping area (most commonly in the form of a loft). For example, one of the nation's first tiny house villages, Dignity Village in Portland, Oregon, is composed of a variety of facilities, ranging from more rudimentary and temporary tarp and wood-frame shelters, to colorful single-occupancy adobe structures.<sup>11</sup> For comparison, the more modern Quixote Village located in Olympia, Washington, includes thirty 154-square-foot cottages on a two-acre plot, each with its own sleeping loft, closet, and half-bath.<sup>12</sup>

Though tiny houses may be built on permanent foundations, most are built on flat-bed trailers in order to maintain portability.<sup>13</sup> This offers a large benefit for residents who enjoy travel; unlike traditional homes, they can easily be moved, usually without a special road permit. As a result of the confusion as to whether tiny houses should be classified as vehicles or buildings for purposes of regulation, the laws applying to tiny houses built on trailer-bases are much less strict than traditional housing and building codes.<sup>14</sup> However, the lack of consistent classification and clear law regarding the treatment of tiny houses is a motivating factor for deciding when to build a tiny house on a trailer base instead of a permanent foundation.<sup>15</sup>

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10. See *Frequently Asked Questions: What is a Tiny House?*, TINY HOUSE COMMUNITY, <http://tinyhousecommunity.com/faq.htm#what> (last visited May 8, 2017). For comparison, one popular tiny house manufacturer, Tumbleweed Tiny House Company ("Tumbleweed"), sells trailer-based homes ranging from 117 square feet to more than 200 square feet. *Tiny Houses for Sale*, TUMBLEWEED TINY HOUSE COMPANY, [http://www.tumbleweedhouses.com/pages/models?avad=59681\\_e9d80682](http://www.tumbleweedhouses.com/pages/models?avad=59681_e9d80682) (last visited May 8, 2017). Another prominent company, Humble Homes, sells plans for trailer-based or foundation-based tiny houses ranging from 119 square feet to 235 square feet. See *Tiny House Plans*, HUMBLE HOMES, <http://humble-homes.com/tiny-house-plans/> (last visited May 8, 2017). Another major tiny house home designer, Four Lights, sells designs that range from 98 square feet to 288 square feet. Jay Shafer, *The Best Tiny House Designs Yet*, FOUR LIGHTS, <http://www.fourlightshouses.com/pages/tiny-houses> (last visited May 8, 2017).

11. See, e.g., *Building Dignity Village*, DIGNITY VILLAGE, <http://dignityvillage.org/history/building/> (last visited May 8, 2017).

12. Office of Policy Dev. & Research, *Addressing Homelessness in Olympia, Washington*, U.S. DEP'T OF HOUSING & URBAN DEV., [https://www.huduser.gov/portal/casestudies/study\\_08312015\\_1.html](https://www.huduser.gov/portal/casestudies/study_08312015_1.html) (last visited May 8, 2017).

13. See, e.g., TUMBLEWEED TINY HOUSE COMPANY, <http://www.tumbleweedhouses.com/> (last visited May 8, 2017).

14. See Megan Craig, *Ten Loopholes to Build a Tiny Home Legally*, HUFFINGTON POST (May 12, 2016, 9:39 PM), [http://www.huffingtonpost.com/gobankingrates/10-loopholes-to-build-a-t\\_b\\_9942198.html](http://www.huffingtonpost.com/gobankingrates/10-loopholes-to-build-a-t_b_9942198.html).

15. See Ryan Mitchell, *The Difference Between a Tiny House a Mobile Home or Trailer?*, TINY LIFE (Jun. 21, 2009), <http://thetinylife.com/tiny-house-vs-mobile-home-trailer/> (stating that "[t]he purpose of having your home on a trailer, is that it allows you to get around many building codes due to the fact that people at city hall scratching [sic] their heads saying 'its [sic] kinda [sic] like a trailer.'").

## 2. Overview of Zoning, Building, and Housing Codes

In addition to local restrictions on minimum footprint, tiny houses built on permanent foundations face strict regulation by other state and local zoning, building, and housing codes. Broadly, the International Building Code applies in all fifty states, the District of Columbia, Guam, the U.S. Virgin Islands, and Puerto Rico.<sup>16</sup> In forty-nine states (Wisconsin is the exception), the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, the International Residential Code (IRC) also governs,<sup>17</sup> with regulations specifically applicable to dwelling units. Essentially a model code, each state has the ability to decide which provisions of the IRC to adopt, as well as the ability to implement relevant statutes of its own design.<sup>18</sup> In addition, each locality has its own zoning and building codes. In some respects, localities have more control over these arenas than the state legislatures because much of this power is delegated by the state to local level regulators. While these restrictions vary from “tiny house friendly” states, such as Oregon, to significantly more restrictive states, such as Michigan, the types of regulatory challenges are roughly the same.<sup>19</sup>

Building code regulations typically include, for example, (i) minimum square footage specifications for habitable living space that make it practically impossible for a home to be smaller than 200 square feet; (ii) municipal water and sewer connection requirements (a problem for tiny house dwellers with composting toilets and greywater recycling systems); (iii) minimum plumbing clearances that are larger than most tiny houses allow; and (iv) permanent heating requirements.<sup>20</sup> Zoning regulations also virtually always include (i) minimum square footage requirements that are substantially larger than most tiny houses; (ii) prohibitions on “accessory dwelling units” that effectively eliminate any dwelling unit—including tiny houses—placed on a plot with a primary residence already present; (iii) restrictions on the length of time

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16. See *Code Adoption Map*, INT’L CODE COUNCIL (Feb. 7, 2017), [https://cdn-web.iccsafe.org/wp-content/uploads/Code\\_Adoption\\_Maps.pdf](https://cdn-web.iccsafe.org/wp-content/uploads/Code_Adoption_Maps.pdf).

17. *Id.*

18. See, e.g., MICH. COMP. LAWS ANN. § 125.1504(2) (West 2006 & Supp. I 2016) (permitting the adoption of all or any part of the model international codes).

19. Compare OR. REV. STAT. § 446.265 (2015) (creating a permissive structure allowing broad latitude in the development of tiny house villages) with MICH. COMP. LAWS ANN. § 125.469 (West 2006) (serving as an example of one of the arguably excessive restrictions, prohibiting common kitchens that are virtually required in the development of tiny house villages).

20. Jay Surabian, *The Regulatory Challenges of Building a Tiny House*, MUN. LAW., May–June 2013, at 12, 13.

residents may stay in trailer-based dwellings on their property; and (iv) rules regarding the spacing of dwellings, and restrictions on the number of dwellings that may be present on a property.<sup>21</sup>

In the more restrictive states, developers of tiny house villages face a number of additional challenges. In Michigan, for example, there is a prohibition on common kitchens, preventing villages from creating shared cooking spaces to save resources.<sup>22</sup> This is problematic as common kitchens are a feature of all of the currently established villages, and also serve the purpose of promoting a sense of community by sharing a space and related tasks.<sup>23</sup> Similarly, strict rules about water and sewer connections can make it financially impractical to build and operate tiny house villages in many locations because connecting each tiny house to the main water and sewer lines requires infrastructure that most villages neither need nor can afford. There is also a continued and ever-present difficulty in nearly all jurisdictions about how to classify tiny houses on trailer-bases. For example, regulations have grouped tiny houses with park-model RVs, mobile homes, manufactured homes, campers, and trailers.<sup>24</sup> As discussed above, this classification determines which sets of rules and regulations apply to a given tiny dwelling. With regard to tiny house villages, this raises the question of whether they are considered campgrounds, mobile home parks, subdivisions, or something else altogether.

While zoning codes determine what size dwelling units must be, housing codes are far more specific and further restrict minimum floor area. Because all states except Wisconsin have adopted the IRC in some form, the minimum habitable room size is typically the IRC standard: “Every dwelling unit shall have at least one habitable room that shall not have less than 120 square feet of gross floor

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21. *Id.* Even if the locality does not have such restrictions, private covenants and bylaws of home owners’ associations may include such prohibitions. *Id.*

22. MICH. COMP. LAWS ANN. § 125.469 (West 2006).

23. See SEGEL, *supra* note 4, at 1 (describing the concerns of funders, community members, and shelter providers when developing Quixote Village in Olympia, Washington).

24. For instance, in Michigan, a “tiny house” on a trailer-base is a “trailer,” and as a “trailer,” it is a “dwelling” subject to housing and building codes. See MICH. COMP. LAWS ANN. § 125.402(1) (West 2006). It could also intuitively be classified as a “house trailer” under the same definition section, which could then either be governed by housing and building codes or by motor vehicle laws. *Id.* This classification is made through the consideration of a number of unclear and undefined terms: if a “house trailer” is used only for a “reasonable period” of time, for example, then it is not subject to housing and building codes, but if it is used for longer than a “reasonable period” of time, then it must comply with these codes. See *id.* “Reasonable period” of time is not defined, see *id.*, illustrating the confusion in determining which laws should actually apply in a given scenario.

area.”<sup>25</sup> This specification has been part of the IRC for many years, and is claimed to promote health and safety.<sup>26</sup> The 2015 version of the IRC, however, lowers this requirement to seventy square feet, identifying “little, if any, documentation on the life safety benefit of having a certain area provided as a minimum.”<sup>27</sup>

Critically, proponents of the change have declared that “[r]emoval of this requirement may provide for a gain in overall life safety . . . research indicates that a considerable number of these structures are purposefully built to evade building code oversight . . . [and] it isn’t appropriate that the code place arbitrary restrictions that have no demonstrable life-safety benefit.”<sup>28</sup> The International Code Council approved this change to the IRC “because they felt that, although micro units may not be everyone’s dream, and there should be minimum room size requirements, there is no technical, safety or general welfare reason to require one room of at least 120 square feet.”<sup>29</sup> This significant change is the first large-scale alteration to nation-wide regulation that is explicitly intended to permit the building of tiny houses, and indicates a recognition in the professional community that many of the restrictions preventing tiny houses are, in fact, arbitrary and do not appear to be truly rooted in concerns about health and welfare. If this version of the IRC is passed in each state—a process that typically only occurs once every three years at the most—it will remove one of the most burdensome restrictions facing tiny house dwellers, allowing localities to have more control in the process.<sup>30</sup>

Additionally, though both state and federal courts have held that aesthetics alone may form the basis of regulation based on protection of the general welfare, they have also consistently identified and invalidated laws that do not actually promote the health, safety, and welfare of the public, and instead are simply arbitrary distinctions designed to create economic segregation.<sup>31</sup> Minimum floor

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25. STEPHEN A. VAN NOTE & SANDRA HYDE, SIGNIFICANT CHANGES TO THE INTERNATIONAL RESIDENTIAL CODE 46–47 (2015).

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. Michigan, for example, specifies that the state residential code will not be updated more frequently than once every three years and no less frequently than once every six years. The state has roughly a year after the publication of the latest version of the IRC to determine which provisions it will implement, and begin to make those changes. *See* MICH. COMP. LAWS ANN. § 125.1504(6) (West 2006 & Supp. I 2016).

31. Surabian, *supra* note 20, at 14; *see* Berman v. Parker, 348 U.S. 26 (1954); *see generally* Gackler Land Co. v. Yankee Springs Twp., 398 N.W.2d 393 (Mich. 1986) (holding aesthetics are a reasonable government interest, but requiring that localities permit the building of mobile homes that are similar in appearance to site-built homes); S. Burlington Cty. NAACP



area requirements that result in economic discrimination have been struck down for this reason.<sup>32</sup> To the extent that current minimum requirements prevent the use of tiny houses from providing affordable housing options, lowering these minimums would be in line with the principles of this well-developed case law.

### 3. Tiny House Villages – Existing Models

In two of the most “tiny house friendly” states—Oregon and Washington—organizations have been able to work with their local governments to establish designated tiny house villages as affordable housing options for the homeless. Each of these existing examples provides useful insight into how it might be possible to establish tiny house villages in less conducive regulatory regimes.

Dignity Village in Oregon, for instance, was the nation’s first tiny house village and was designed to provide a housing solution for Portland’s homeless. Dignity Village avoided many of the housing and building code troubles that plague most tiny house communities, by establishing itself as a “Designated Campground” under Oregon state law.<sup>33</sup> This statute permits Dignity Village to be used as “transitional housing” for “persons who lack permanent shelter and cannot be placed in other low income housing.”<sup>34</sup> The Village accommodates up to sixty residents in one- and two-person tiny houses—small, uninsulated dwelling units built on raised decks and

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v. Twp. of Mount Laurel, 336 A.2d 713, 732 (N.J. 1975) (recognizing that localities must permit “small dwellings on very small lots” in order to provide affordable housing options).

32. See *Builders Serv. Corp. v. Planning & Zoning Comm’n*, 545 A.2d 530 (Conn. 1988) (holding that a statute requiring a minimum floor area of 1300 square feet was not rationally related to a legitimate purpose, and was therefore invalid).

33. Portland, Or., Ordinance Contract 32000680 (Dec. 1, 2012), <https://dignityvillage-portland.files.wordpress.com/2015/10/dignityvillage.pdf> (contract establishing Dignity Village as a Designated Campground).

“(1) A municipality may approve the establishment of a campground inside an urban growth boundary to be used for providing transitional housing accommodations. The accommodations may consist of separate facilities, in the form of yurts, for use as living units by one or more individuals or by families. The person establishing the accommodations may provide access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities. The accommodations shall provide parking facilities and walkways.

(2) Transitional housing accommodations described under subsection (1) of this section shall be limited to persons who lack permanent shelter and cannot be placed in other low income housing. A municipality may limit the maximum amount of time that an individual or a family may use the accommodations.”

OR. REV. STAT. § 446.265(1)–(2) (2015).

34. OR. REV. STAT. § 446.265(2) (2015).

decorated in bright colors by the residents.<sup>35</sup> Each tiny house has been built on a platform to facilitate eventual removal via flat-bed truck and road restrictions upon removal require that the structures be no taller than fourteen feet from ground to roof, including an eighteen inch buffer from the ground to the floor in order to prevent pests.<sup>36</sup> There is also a community building that provides additional living and meeting space, a shared kitchen, shared restroom facilities, a computing center, and container gardens.<sup>37</sup>

While Dignity Village has generally been successful, “transitional housing” language in the state statute imposes standards that the Village has been unable to satisfy.<sup>38</sup> In a 2010 evaluation conducted at the request of the City of Portland, a consultant found that “it is not realistic to hold [the Village] to the same standards as formal Transitional Housing programs that have professional staff, extensive public and private funding, and provide ready access to case management, treatment, and other services.”<sup>39</sup> Further, under the Oregon statute a “Designated Campground” must offer temporary housing, but the statute does not define “temporary.”<sup>40</sup> As a result, it is unclear whether it refers to the status of the structures or the people, and there are no guidelines for what length of time is considered “temporary.” The 2010 evaluation explained that this lack of clarity is problematic because “if a significant portion of the Village’s residents are there for an extended period of time [as may be necessary to find them permanent housing], the campground will no longer meet a commonsense understanding of ‘temporary.’”<sup>41</sup> In the 2012-2015 Agreement for Services, developed after the 2010 evaluation was completed, the City specified its own interpretation of “temporary,” capping stays at twenty-four months without further authorization by the City.<sup>42</sup>

Conversely, Quixote Village in Olympia, Washington was designed and built to provide permanent supportive housing for the

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35. KRISTINA SMOCK CONSULTING, AN EVALUATION OF DIGNITY VILLAGE 3 (2010), [http://media.oregonlive.com/portland\\_impact/other/Dignity%20Village%20Evaluation%20Report%20Final%2003-22-10.pdf](http://media.oregonlive.com/portland_impact/other/Dignity%20Village%20Evaluation%20Report%20Final%2003-22-10.pdf).

36. Portland, Or., Ordinance Contract 32000680, *supra* note 33, at 17–19.

37. KRISTINA SMOCK CONSULTING, *supra* note 35.

38. *See id.* at 13.

39. *Id.* Because transitional housing is used exclusively for the homeless, they are often in need of social services to get out of the village and into more stable employment and housing. Other classes of tiny house dwellers will not need these types of services. Oregon, however, requires transitional housing providers to offer social services by statute, regardless of the actual needs of the community.

40. *Id.* at 15 n.8.

41. *Id.*

42. Portland, Or., Ordinance Contract 32000680, *supra* note 33, at 5.

homeless.<sup>43</sup> Quixote has thirty tiny houses, each with its own half-bath, a community building with a kitchen, bathing facilities, and common spaces.<sup>44</sup> The City of Olympia adopted a new category of dwelling unit—“single room occupancy” units, or SROs—in order to permit the development of the Village.<sup>45</sup> An SRO is defined in the Olympia Municipal Code as “[a] single room occupancy sleeping unit [which] must be at least 120 square feet and have unencumbered access to both sanitary facilities and a full common kitchen facility.”<sup>46</sup> Like all other dwelling units, SROs are subject to zoning density requirements. Quixote Village, for example, has been permitted to build thirty tiny houses on a two-acre plot.<sup>47</sup> The developers of the Village have also noted that “[t]he local jurisdiction may have to adopt a code that allows for shared bathrooms and kitchens that are not in the same physical structure as the housing unit and/or allows for smaller minimum dwellings. Projects may need variances or building code changes to address parking, sprinkler, and other requirements.”<sup>48</sup> These recommendations, however, assume that the localities are able to take all of the necessary action. This is simply not the case in many of the more restrictive states that either effectively or expressly prohibit tiny houses. Many localities are unable to implement their desired reforms due to such state law restrictions. And oftentimes, localities are unable to implement their desired reform because state law outright prohibits many of their desired changes.

A third model, Opportunity Village in Eugene, Oregon, works with local government to circumvent existing local building, zoning, and housing codes by using a conditional use permit (CUP).<sup>49</sup> CUPs permit localities to authorize special projects without making fundamental changes to their zoning, building, and housing codes. The CUP request includes language similar to that of Dignity Village’s contract, given that they are both established as “transitional housing” under Oregon law.<sup>50</sup> Opportunity Village therefore faces the same problem of defining “temporary,” and in this case the City has addressed the problem by making the entire village—including the structures—temporary: no permanent structures are permitted,

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43. SEGEL, *supra* note 4.

44. *Id.* at 1.

45. *See id.* SROs also permit the Village to receive HUD funding. *Id.*

46. OLYMPIA, WASH., CODE § 16.04.030(C)(1) (2017).

47. *See* SEGEL, *supra* note 4.

48. *Id.* at 7.

49. CITY OF EUGENE, CONDITIONAL USE PERMIT STAFF REPORT: CU 13-1 AND ARA 13-7 (2013), <https://www.eugene-or.gov/AgendaCenter/ViewFile/Agenda/07312013-540>.

50. *Id.*

and the CUP will be discontinued when the City chooses not to renew the contract, or when Dignity Village does not seek renewal.<sup>51</sup> The site plan specified the construction of thirty buildings ten feet apart, each ranging from 60 to 100 square feet, with a maximum height of ten feet.<sup>52</sup> The Village is leasing property from the City, and because no permanent structures can be built, no dwelling unit is connected to plumbing—though there are shared kitchen and bathing facilities on site. Conditional Use Permits give municipalities the authority to allow variations from local law in circumstances such as this. While this could be an attractive option for some tiny house builders, there is no guarantee that a given CUP would be approved. Additionally, inconsistency in local government decision-making about these villages could create further variability in regulations and governance.

## II. CURRENT LEGAL CHALLENGES FACED BY TINY HOUSE VILLAGES

There are three broad categories of law that govern tiny houses: zoning, building, and housing codes. The difficulties faced by tiny house builders in each category are discussed in Part II.A, B, and C. Part II.D includes a discussion of campground laws and a creative potential solution to the barriers created by traditional residential regulations. Before discussing each Section, however, a short introduction is needed to determine which laws will apply given the question of whether tiny houses are considered dwellings.

The first step in classifying tiny house villages under zoning, building, and housing codes is to determine whether the tiny house at issue is, fundamentally, a “dwelling.” Typically, both state housing codes and local zoning ordinances will have a definition of “dwelling” or “dwelling unit,” though it is common for localities to *not* have a specific definition of the term. In Michigan for instance, the definition of a “dwelling” is incredibly comprehensive and includes “any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, (except railroad cars, on tracks or rights-of-way) which is occupied in whole or in part as the home, residence, living or sleeping place of 1 or more human beings, either permanently

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51. See Andrew Heben, *Opportunity Village Turns One Year Old—and Looks Forward to the Next!*, OPPORTUNITY VILLAGE EUGENE (Sept. 10, 2014, 8:41 PM), <http://www.opportunityvillageeugene.org/2014/09/opportunity-village-turns-1-year-oldand.html> (stating that the agreement will last only until June 1, 2016).

52. CITY OF EUGENE, *supra* note 49, at 7.

or transiently.”<sup>53</sup> On a local level, using the City of Ann Arbor’s zoning code as an example, municipalities may define a “dwelling unit” as “[o]ne or more rooms with kitchen and sanitary facilities designed as a unit for occupancy by 1 family.”<sup>54</sup> Under these definitions, a Dignity Village-style tiny house would not be classified as a “dwelling unit” because it has neither a kitchen nor sanitary facilities in-unit, but would be subject to Michigan state housing codes since it clearly falls under the broad state definition of a “dwelling.”<sup>55</sup> These discrepancies, particularly where there is no local definition of the term, creates confusion for tiny house owners and village planners because it makes it unclear what standards the tiny houses must meet.

### A. Zoning Codes

Generally, states delegate to localities the authority to create and enforce zoning regulations. In most zoning codes, this includes distinguishing between single-family and multi-family dwellings for purposes of regulating each independently. In some localities tiny houses in villages will be classified as single-family dwellings, in others they will be multi-family dwellings, and still in other jurisdictions they will not fit into the statutory definitions of either. For example, in Eugene, Oregon, home of Opportunity Village, multi-family dwellings are “[o]ne or more buildings on a single lot or parcel that are designed and used for 3 or more families, all living independently of each other, and having separate housekeeping facilities for each family.”<sup>56</sup> Conversely, in Ann Arbor, Michigan a multi-family dwelling is “[a] building containing 3 or more dwelling

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53. MICH. COMP. LAWS ANN. § 125.402(1) (West 2006). This provision also includes “[a] house trailer or other vehicle, when occupied or used as a dwelling . . . except that house trailers or other vehicles, duly licensed as vehicles, may be occupied or used as a dwelling for reasonable periods or lengths of time, without being otherwise subject to the provisions of this act for dwellings, when located in a park or place designated or licensed for the purpose by the corporate community within which they are located.” *Id.* In Oregon, on the other hand, the definition of “dwelling” is found in a statute describing energy tax credits, and *not* directly in the housing code. For comparison, the Oregon definition is “real or personal property ordinarily inhabited as a principal or secondary residence and located within this state. ‘Dwelling’ includes, but is not limited to, an individual unit within multiple unit residential housing.” OR. REV. STAT. § 469B.100(9) (2015).

54. ANN ARBOR, MICH., CODE OF ORDINANCES, tit. V, ch. 55, art. 1, § 5:1(17) (2017) (“dwelling unit”).

55. Actually, because the Dignity Village shelters do not have sanitary facilities or kitchens in-unit, they would be classified as “substandard dwellings” under Michigan law, and would therefore be uninhabitable.

56. EUGENE, OR., CODE, ch. 9.0500 (“dwelling, multiple-family”) (2017); Opportunity Village is under a CUP that avoids this classification problem. It is also unclear what precisely

units arranged either side by side or 1 above the other,” and thus clearly not applicable to tiny house villages.<sup>57</sup> While privately owned tiny houses nearly always have their own kitchen and sanitary facilities, the tiny houses built in affordable housing villages virtually never have their own kitchen spaces and only have half-baths if there is enough financial support to accommodate such a drastic increase in cost.

Other zoning issues that tiny house village planners are likely to face include density regulations, dwelling spacing requirements, and parking space minimums. These vary widely from locality to locality, and from zoning classification to zoning classification. Density requirements limit the number of dwellings that may be contained on a given sized lot. Some cities have specialized “high density” zoning classifications, which may be required in order to permit several tiny houses on a relatively small plot of land—the common village design. Portland, Oregon, home of Dignity Village, has a separate density variation increasing the maximum density permitted for transitional, short-term housing.<sup>58</sup> Dwelling spacing requirements and lot coverage ratios also restrict the number of dwellings that may be placed on a given lot, and vary widely between zoning classifications and jurisdictions. Finally, parking space minimums in some localities—frequently, one parking space per single-family dwelling—may require villages to have parking available for the tiny houses, a space-consuming feature that tiny house village residents may simply not need.

### *B. Building Codes*

By far, the most obvious and restrictive prohibition on tiny houses is the minimum square footage requirement enforced at the state level.<sup>59</sup> Building codes are governed mostly by state law, but localities are given control over anything states don’t regulate. How far that extends will vary by the state. These requirements come from the International Residential Code (IRC), adopted in some form by every state except Wisconsin. The majority of states are

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“housekeeping facilities” are, making it difficult to determine how shared bathroom and kitchen facilities as is common in tiny house villages affect classification here.

57. ANN ARBOR, MICH., CODE OF ORDINANCES, tit. V, ch. 55, art. 1, § 5:1(18) (2017) (“dwelling, multi-family”). Under Ann Arbor City Code, tiny house villages would neither fall under single-family nor multi-family dwellings unless each tiny house had its own kitchen and bathroom—an uncommon and expensive feature of tiny house villages.

58. See PORTLAND, OR., CODE, § 33.110.240(H) (2017).

59. Though there are often even more limiting minimums at the local level, state level reform is generally going to be more difficult to achieve.

working with some form of the 2012 IRC, which specifies a minimum square footage for a dwelling unit of 120 square feet of gross floor area.<sup>60</sup> In the 2015 IRC, however, this requirement has been reduced to seventy square feet expressly to permit the development of tiny houses.<sup>61</sup> In order for this reform to be truly wide-reaching, each state would need to adopt the 2015 version of § R304.1, and as of the time of this writing it is unknown whether the states will be receptive to the change. Stricter requirements remain at the local level as well, with many municipalities enforcing their own minimum square footage well above the IRC model code.<sup>62</sup> Even so, the IRC revision is a significant leap forward for the tiny house movement.

Some tiny house proponents mistakenly believe that there is an exception to the minimum square footage specification under IRC § R105.2, which exempts certain buildings from the permit requirement and therefore allows for the creation of structures that do not need to satisfy any minimum floor size requirement.<sup>63</sup> Included in this exemption are one-story detached accessory buildings smaller than 200 square feet.<sup>64</sup> However, the exemption only applies to *accessory* buildings, not primary dwellings on a lot as would be the case with most tiny houses. Further, these secondary buildings are intended to be structures such as sheds and playhouses, and cannot be used as habitable dwellings.<sup>65</sup> This prohibition is often codified by localities as well.<sup>66</sup>

In addition to the minimum square footage requirement, the IRC includes a laundry list of design specifications that are difficult if not impossible for tiny houses to meet.<sup>67</sup> For instance, the IRC specifies a minimum ceiling height of seven feet, prohibiting a common space-saving feature of tiny houses: lofted sleeping spaces.<sup>68</sup> It also requires every dwelling unit to have a toilet, bathtub or shower,

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60. INT'L RESIDENTIAL CODE § R304.1 (2015).

61. Van Note & Hyde, *supra* note 25, at 46–47.

62. See, e.g., ANN ARBOR, MICH, CODE OF ORDINANCES, tit. VIII, ch. 105, § 8:503 (2017).

63. Surabian, *supra* note 20, at 15 n.9 (citing the 2012 version of the International Residential Code, which does not materially differ from the 2015 version in this context).

64. INT'L RESIDENTIAL CODE § R105.2 (2015).

65. Surabian, *supra* note 20, at 15 n.9 (citing the 2012 version of the International Residential Code, which does not materially differ from the 2015 version in this context); INT'L RESIDENTIAL CODE § R105.2 (2015).

66. Even the states that are most friendly to tiny houses, like Michigan, prohibit such occupation. See, e.g., CITY OF ANN ARBOR PLANNING & DEV. SERV., ACCESSORY BUILDING GUIDELINES 2 (2014), <http://www.a2gov.org/departments/planning-development/zoning/Documents/Accessory%20Buildings%20Handout%20Final.pdf>.

67. The most problematic provisions are discussed here, though this list is not exhaustive.

68. INT'L RESIDENTIAL CODE § R305.1 (2015).

kitchen with a sink, hot and cold water connection, and sewer connection.<sup>69</sup> No current tiny house village provides cooking facilities in each dwelling. In developing an alternative housing plan, cost is often prioritized over environmental impact, but the potential effects cannot be ignored; requiring sewer and water connections prevents tiny houses from exclusively using greywater recycling programs and environmentally-friendly devices such as composting toilets. In many jurisdictions, these utility connection requirements are codified at the local level.<sup>70</sup> There are also federal level versions of many of these regulations, including a ceiling height minimum and a bedroom square foot minimum of at least fifty square feet for manufactured homes.<sup>71</sup>

Every state has some restriction on the minimum footprint that a residential dwelling must have, which is itself far larger than most tiny houses. Whether these prerequisites are an explicit minimum square footage requirement or an implicit requirement resulting from restrictions on bathrooms and bedrooms as discussed above, these minimums often prove to be a complete bar on the building of even single tiny houses.

### C. Housing Codes

Some local housing codes provide specific classifications that may serve as examples for pieces of reform on a local level, possibly circumventing state and federal level inaction. The City of Ann Arbor, for example, includes a definition of “rooming unit” in its housing code that could apply to tiny houses: “A room or group of rooms other than in a single, two-, or terrace family dwelling, forming a single habitable unit used or intended to be used, for living and sleeping, but which does not contain cooking or eating facilities.”<sup>72</sup> “Rooming units” are subject to a less strict minimum square footage standard of eighty square feet for one occupant, though they still face the same “dwelling unit” utility connection requirements.

The largest difficulty with these types of housing codes is that they vary so widely at the local level, and while some localities have “loopholes” like “rooming units” or definitions of “efficiency units” that could be stretched to include and permit tiny house villages,

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69. *Id.* § R306.1–.4 (2015).

70. *See, e.g.*, ANN ARBOR, MICH., CODE OF ORDINANCES, tit. II, ch. 27, § 2.22a (2017).

71. 24 C.F.R. §§ 3280.104, .109(a) (2016).

72. ANN ARBOR, MICH., CODE OF ORDINANCES, tit. VIII, ch. 105, § 8.500(26) (2017) (“rooming unit”).



they are inconsistent and often ambiguous. Developers cannot count on these ordinances and codes reliably, and given the restrictions in state and local zoning and building codes, housing codes can rarely legalize a village development on their own.

#### *D. Campgrounds*

##### 1. Traditional Campgrounds

Tiny house villages may be more properly classified as “campgrounds,” though this distinction often creates its own difficulties. Traditionally, campgrounds are used for “recreational” purposes, and statutes governing their use typically include language to that effect. In Michigan, for example, a campground is defined by state statute as “a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for [five] or more recreational units.”<sup>73</sup> “Recreational unit” is defined as “a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered.”<sup>74</sup> Under this regulatory scheme, a tiny house village with at least five trailer-built tiny houses could foreseeably be classified as a campground. However, the Michigan campground statute specifies that a “[r]ecreational unit does not include a mobile home used as a permanent dwelling, residence, or living quarters.”<sup>75</sup> This regulation recalls the difficulty in distinguishing between tiny houses as dwellings, manufactured or mobile homes, or recreational vehicles. Notably, the statute also does not define “temporary” or “recreational,” give guidance as to whether the dwelling itself can be permanent, or establish whether the permanency restriction applies solely to the inhabitants of the dwelling.

Some foundation-based or skid-based tiny houses could be considered “camping cabins,” though these are also subject to restrictive regulation. Again, using Michigan as an example, a “camping cabin” is “a recreational unit that is a hard-sided tent or shelter, that is less than 400 square feet in area, that is on skids

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73. MICH. COMP. LAWS ANN. §§ 333.12501(1)(a) (West 2006).

74. *Id.* § 333.12501(1)(f).

75. *Id.* § 333.12501(1)(f)(v).

designed to facilitate relocation from time to time, and that does not have a direct connection to a source of water.”<sup>76</sup> Conversely, a hard-sided tent or shelter that is greater than 400 square feet (exceeding the traditional definition of a tiny house), that is permanently attached to the ground (i.e. foundation-based tiny houses), or has a water connection inside the cabin cannot be placed on a registered campsite, and to obtain a campground license, the campground must include at least five registered campsites.<sup>77</sup> As a result, in Michigan, a tiny house built on skids could be placed on registered campsites, provided that there is no water connection in the “cabin.” A foundation-based tiny house could be located at a campground, with an in-unit water connection, but the campground must also provide at least five campsites without these permanent structures—which are superfluous spaces likely to be used solely in mild temperatures and certainly not as year-round housing in a climate such as Michigan’s.<sup>78</sup>

While Michigan’s provisions governing campgrounds are relatively strict, other states, such as Oregon and Texas, do not have specific definitions of “campgrounds” or corresponding, comprehensive regulation in their state statutes. These states are likely to be more conducive to constructing tiny house villages and designating them as campgrounds because the lack of a restrictive definition, such as those in Michigan, allows more flexibility in classifying “campgrounds” broadly.

## 2. Transitional Campgrounds

Some states, including Oregon, which does not otherwise define “campgrounds,” have statutes permitting the development of “transitional housing” campgrounds. Oregon is currently the only state that has expressly provided for the creation of transitional housing accommodations in the form of tiny house villages.<sup>79</sup> Under the Oregon statute, localities retain virtually all of the control over these campgrounds. The statute gives municipalities the ability to authorize up to two campgrounds to be used for transitional housing accommodations, and allows them to limit the length of time that

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76. MICH. ADMIN. CODE r. 325.1551(b) (2001 Supp.).

77. MICH. COMP. LAWS ANN. § 333.12501(1)(a) (West 2006).

78. Michigan also has a prohibition on common kitchens, potentially limiting the types of cooking facilities permitted in a tiny house village, though such strict requirements seem rare. *See* MICH. COMP. LAWS ANN. § 125.469 (West 2006).

79. OR. REV. STAT. § 446.265 (2015).

an individual can reside in the campground.<sup>80</sup> The person establishing the campgrounds “may provide access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities,” and “shall provide parking facilities and walkways.”<sup>81</sup> Such facilities must be designed to house individuals temporarily, with the maximum length of stay designated by the municipality.<sup>82</sup> It also requires that municipalities give preference to sites “that have access to grocery stores and public transit services.” This law was passed in 1999, a few years before Dignity Village and was therefore not designed to allow for tiny houses specifically, but does a far better job of capturing the needs of these villages than existing legislation in other states.

A substantial strength of the Oregon statute is its repeated use of the term “may” in order to give flexibility to the developers of transitional campgrounds: they “may” provide sanitary, cooking, and community facilities; the dwellings “may” have plumbing, electrical services, and heat. It also requires that municipalities establishing designated transitional campgrounds to give preference to locations with access to grocery stores and public transportation. This flexibility is critical to allowing developers to work within their means—there may be funding available for half-baths in-unit in some cases but not others, for example. The text of the statute seems to indicate the understanding that each of these campgrounds will, by necessity, differ depending on need, funding, and feasibility.

The Oregon statute is a great foundation, but it is far from perfect. It requires the facility to provide parking, which may neither be necessary nor feasible in all circumstances. It specifies that the accommodations are solely for individuals who “cannot be placed in other low income housing,” but does not specify who makes that decision, or what is meant by “cannot.” This leaves open the question of how often “cannot” must be reevaluated, or what other circumstances are preferable. For example, it is unclear whether individuals would be required to move from the village to a traditional shelter as soon as space is available.

It also requires that the structures placed on the campground be limited to “yurts,” “a round, domed tent of canvas or other weather resistant material, having a rigid framework, wooden floor, one or

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80. *Id.* §§ 446.265(2), (5).

81. *Id.* § 446.265(1).

82. *Id.* § 446.265(2). Dignity Village, which was created under this statute, is limited by the City of Portland to providing housing for each individual for no more than twenty-four months, though the shelters at Dignity Village are not “yurts” as defined by the statute. *See* Portland, Or., Ordinance Contract 32000680, *supra* note 33, at 5.

more windows or skylights and that may have plumbing, electrical service or heat.”<sup>83</sup> This extraordinary limitation on structural development seems odd and inconsistent with the flexibility that the rest of the statute exhibits. Including such a requirement in a model statute would be impractical and arbitrary; there is no advantage of a round structure over a square or rectangular structure that would be worth such a forceful limitation, and no existing tiny house village—or designated campground, under the Oregon statute—is composed of yurts anyway.

Even with the success of Dignity Village under this statute and with the support of the City of Portland, there remain many challenges, as detailed in the 2010 evaluation prepared for the City.<sup>84</sup> Included in the list of recommendations is a change in the language used to describe Dignity Village, from “transitional housing” to either “temporary housing,” “transitional dwellings,” or “alternative housing” in order “to distinguish the Village from formal Transitional Housing programs” which typically include “professional staff, extensive public and private funding, and provide ready access to case management, treatment, and other services.”<sup>85</sup> This language change was recommended because “it is not realistic to hold [the Village] to the same standards as formal Transitional Housing programs.”<sup>86</sup> Tiny house villages are simply not likely to have the same access to professional social services, or the financial ability to support such a service.

### III. PROPOSED REFORM

There are a number of different ways to change regulations in order to permit the use of tiny house villages as an alternative housing option to address the homelessness epidemic in the United States. The creation of a state-level “Designated Campground” classification, modeled after the Oregon statute, would be the most effective reform as it would circumvent most of the other statutory prohibitions, and would therefore not require extensive changes to zoning, building, or housing codes at either the state or local level. Alternatively, state legislatures could loosen minimum floor size standards along with other relevant building codes. Under this alternative, localities would likely still need to change their own

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83. OR. REV. STAT. § 446.265(6) (2015).

84. KRISTINA SMOCK CONSULTING, *supra* note 35.

85. *Id.* at 13.

86. *Id.* at 13–14.

restrictions—including any additional minimum floor size requirements and utility connection requirements. This path requires far more active political movement, yet still leaves a significant “gray area” of the law, extreme variation of law, and expects small groups of community organizers to have more working knowledge of the intricacies of state and local zoning, housing, and building codes than they are practically likely to have.

#### *A. Model Statute*

Based on the Oregon statute, and the terminology recommendations made by the Dignity Village evaluation, a model state-level statute would appear as follows:

(1) A municipality may approve the establishment of a campground inside an urban growth boundary to be used for providing temporary housing accommodations. The accommodations may consist of separate facilities for use as living units by one or more individuals or by families. The person or entity establishing the accommodations must provide access to potable water, toilet, bathing, and cooking facilities, and may do so either through individual or communal facilities. The accommodations may also provide parking facilities and walkways, as needed.

(2) Temporary housing accommodations described under subsection (1) of this section shall be limited to persons who lack permanent shelter. A municipality may limit the maximum amount of time that an individual or a family may use the accommodations.

(3) Campgrounds providing temporary housing accommodations described under this section may be operated by private persons, nonprofit organizations, or municipalities.

(4) In approving the use of parcels for a campground, the municipality shall give preference to locations that have access to grocery stores and public transit services.

(5) Structures used as dwelling units must be weather-resistant and have a rigid framework. The structures may have one or more windows or skylights, plumbing, electrical service, and heat.

(6) Temporary housing facilities created under this section will not be required to provide professional support or social

services to residents. Municipalities must provide these services, and campground operators must direct residents to these services upon request.

Ideally, the seventh subsection would explicitly exempt the campground from state building codes. While it is common for campgrounds to inherently be exempted from these codes, many states do not have separate laws governing campgrounds, and expressly exempting these facilities from restrictive state building codes would provide security for developers.

Each section of the model statute attempts to address a specific concern. Section (1) identifies the need for local control of these designated campgrounds, given the variations in need in each municipality. It mandates fundamental housing features such as access to potable water and restroom facilities, but allows developers to choose whether to provide these facilities in each tiny house or as shared access, depending on availability of funds, design, consideration of environmental footprint, and any other factors relevant to each tiny house community.

Section (2) recognizes the temporary nature of these villages, which are designed not as permanent housing, but temporary shelter until more permanent residences are acquired. Taking other villages as inspiration, this leaves open the possibility of allowing some residents to stay for a longer term and help with the operation of the village, building a stronger sense of community. This subsection permits discretion in length of stay, but clearly indicates that no individual living in these villages should expect to be there permanently. There will be consistent turnover, but this is critical to the goal of the villages; they are transitional, aimed to provide basic shelter and community in order to "get back on their feet" and move to permanent housing as soon as possible and thus opening the tiny house again to other individuals who have an immediate need for shelter.

Section (3) is relatively self-explanatory. It is intended to give any organization inclined to do so the ability to develop a tiny house village, including local governments themselves. This is aimed at providing as much latitude as is reasonable to encourage development of these communities.

Section (4) again leaves discretion with the local governments, but recognizes that often tiny house villages will be relegated to far corners of the locality in order to hide them from view, creating extreme barriers to those who cannot afford their own vehicle to access grocery facilities or employment. The model statute addresses this concern by requiring local governments to give

preference to those locations with access to public transportation, or are within reasonable walking or biking distance of basic necessities.

Section (5) requires stable, weather-resistant structures in order to prevent the spread of “tent cities” or otherwise unsafe shelter. It allows, but does not mandate, individualized access to water, heat, and other features as necessary. For example, a tiny house village designed to operate year-round in Michigan will likely need to heat the residences, but a similar village in southern Florida should not be required to expend funds to provide heated homes. This section is designed to require the minimum safety features necessary to provide habitable housing, while recognizing that further safety needs will vary.

Finally, Section (6) recognizes that these villages are not likely to have the financial support available to provide staff and resources in order to achieve the ultimate goal of assisting residents in finding stable employment and housing to ultimately leave the village. It requires local governments, which are virtually always in a better position to provide such resources as they often already offer them to more traditional homeless shelters and programs, to bear this burden.

### *B. Alternatives to the “Designated Campground”*

#### 1. State-Level Alternatives

If states are unwilling to pass legislation creating designated campgrounds for temporary housing accommodations, other routes to legalize tiny house villages exist. Ultimately, states must first loosen the minimum square footage requirement for habitable dwellings. The IRC has already made this change, though states must still choose to adopt the IRC recommendation. Because states may pick and choose which sections of the IRC to implement—if any at all—there is no guarantee that the significant change in the 2015 IRC recommendations will actually become law. This is the first step that must be taken in order to broadly permit tiny houses to be used as primary dwellings in any capacity.

Some states will need to take additional action, depending on the status of their regulations. For example, some states may need to eliminate the requirement that dwellings must contain sanitary and cooking facilities. Additionally, electing to ignore the IRC recommendation regarding ceiling height above sleeping spaces would

make sleeping lofts possible, giving tiny house builders more options, but would not be strictly necessary for tiny house villages to be constructed.

## 2. Local-Level Alternatives

If states were to make these changes, municipalities would be free to alter their own regulations. Such changes are likely to include lowering the minimum floor size for a dwelling, eliminating any per-unit sanitary and cooking facility requirements, and eliminating the requirement that dwellings must be connected to municipal water and sewer lines.<sup>87</sup> Municipalities may also be able to create new zoning classifications such as "single-room occupancy units," or SROs, though these are traditionally units in a single building and code drafters must be careful to permit free-standing SROs. Specific reform ideas for alternatives at the local-level are difficult to make as a result of extreme variations in local laws and regulations, though these three categories of change seem to be fairly universally applicable.

## CONCLUSION

There are, of course, other considerations that must be made when determining the feasibility, practicability, and desirability of tiny house villages built to accommodate the homeless. There must be a distinction made between tiny house villages and tent cities, particularly given the general distaste toward the latter.

Critics of tiny house villages may ask why this type of alternative housing option is desirable over other models, such as the traditional shelter or rooming houses. First, tiny houses permit individuals to retain a sense of independence and community that is difficult to cultivate in more traditional forms of temporary housing.<sup>88</sup> Second, the capital required to establish a tiny house village is

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87. As explained above, this last policy recommendation is necessary to allow for communal sanitary facilities, but also allows tiny house dwellers to be more environmentally-friendly. This is because tiny houses would be permitted to recycle greywater instead of connecting to municipal water sources, and could use composting toilets instead of connecting to municipal sewer systems.

88. See SEGEL, *supra* note 4.



much lower than what would be required to build a traditional shelter, and because the units are smaller, less-skilled volunteer labor could be used in place of contractors, where available.<sup>89</sup>

Ultimately, the mathematical truth is that there are not enough beds at shelters to accommodate the number of homeless men, women, and children in the United States. With appropriate legislative reform and community support, tiny house villages can be an affordable, alternative temporary housing accommodation option.

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89. *See id.*