

Comments on B21-462, "Minimum Wage, Living Wage, and Millennial Tiny Housing Amendment Act of 2015"

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Thank you for the opportunity to testify on this important piece of proposed legislation. Micro-housing is an important trend, and responds directly to a need for more affordable housing, as well as a desire of many to live more simply and ecologically.

In 2012 I founded the Micro Showcase, just up the street off of North Capitol south of Michigan Ave. It is a display of best-in-class micro structures, all under 350ft², as well as a showcase of sustainable technologies, an online resource for micro-building, and the office of the DC Chapter of the American Tiny House Association. We host tours for individuals, school groups, and city officials, Council Members and staff. To date over we've hosted over 3000 visitors. Our next open house is this Saturday, Feb 8 at 11am, and I invite all to attend.

I would like to offer a few comments on this legislation to both clarify and strengthen it.

- In the bill the terms 'tiny house' and 'new homes' are not defined adequately, apart from the requirement of being 'stationary'. Micro housing in the U.S. takes many forms:
 - foundation built, multifamily (multiple units)
 - foundation built, detached. These are single unit, detached (free standing) structures, commonly referred to in urban planning parlance as 'accessory dwelling units (ADU's), or 'in-law' suites/carriage houses/'granny pads' and are located behind a primary residential structure. ADU's may also be attached in the primary residence (i.e. basement units, etc).
 - foundation built, detached single family residences. These are not accessory to any main unit.
 - 'tiny houses' on wheels (trailers), originated and popularized by Tumbleweed Tiny homes company over a decade ago.

A survey of the types of micro units can be found here:

<http://www.microshowcase.com/microdwell/microhousing-an-overview/>

- The bill specifies units to be "*no less than 600 ft²*". Tiny houses and micro units around the country are generally significantly smaller than 600ft². For comparison, in other cities building foundation built, multi-unit microhousing:
 - **Seattle**: the U.S. micro-housing pioneer, with over 3000 units across the city. Seattle permits living units down to 90ft², and most are in the 150-400ft² range.
 - **NYC**: has a 400ft² minimum apartment size rule (frequently violated). The current NYC Adapt project is the main example, with 55 units of 370 ft² (zoning had to be waived for the project to proceed).
 - **DC**: currently the primary example currently is PN Hoffman's **Wharf** project, with 170 micro-units of 330-380 ft², though several other developers have micro-units in their pipeline.
 - **San Francisco**: the city recently approved a trial of 375 units, some as small as 220 ft².
 - **Boston**: is developing 195 units, with a size of 350ft².

Currently in DC the minimum square footage requirements for an apartment is 220ft². Many can personally attest that it is quite easy to live as a single individual well in 200ft², so it is suggested that the 600ft² be reduced significantly.

- The bill specifies houses shall "*cost no more than \$50,000 to construct*". It is unclear where this number is derived from, but equates to \$83/ft² for a 600ft² unit. This appears highly unrealistic in the DC market if it is to include land, development costs, utility connections, etc. I would also note that by far the most cost effective approach would be multiple micro-units in a single building, as has been developed in other cities across the country.
- Under the proposed legislation MLMTHI shall be responsible for developing and selling the units "for no more than \$50,000". Without further regulations on sale of the properties. it is highly likely that eligible buyers of these units will acquire and then immediately flip the units for higher market prices. Average residential prices in DC are currently approximately \$487/ft², which equates to an effective net subsidy to the buyer of \$242,400 per 600ft² unit.

- The bill makes no reference to the Office of Planning's comprehensive zoning rewrite, just approved in December 2015 and to be implemented in 2016. The zoning code changes directly impact the potential development of micro housing in the District, and the current legislation would be improved by directly addressing the new codes. A summary of these codes, and how they are changing, appears below. This is also available at: <http://www.microshowcase.com/dc-microhousing/>
- Given land constraints it is unclear where land for 125 microunits in each of the 8 Wards will be acquired. Given the updated zoning regulations, a potentially more cost effective approach would be to use MLMTHI funds to subsidize existing homeowners with land behind their homes or space in their homes to build affordable micro-unit detached or attached ADU's with rent controlled leases. There are tens of thousands of residential properties across the District with adequate land or excess square footage to build such ADU's.

Micro Housing in Washington DC	Residential Zone	Minimum Square Footage	Current Zoning Code	Proposed Final Zoning Changes (Dec 2014, to be finalized fall 2015)	Code cited	Notes
Multi-family/Apartment	All	220 ft2	Permitted	No change. DC has long had a progressive, 220 ft2 low minimum square footage rule enacted for multifamily.		This compares favorably to new construction in other U.S. cities: Seattle (90 ft2), Portland (150 ft2), Los Angeles (200 ft2), San Francisco (220 ft2), Providence (225 ft2), Chicago (275 ft2), Boston (350 ft2), Austin (400 ft2), NYC (400 ft2). See Urban Land Institute (ULI) 46-page report titled "The Macro View on Micro Units."
Single Family, Detached, Street	All R	Varies	Permitted	No substantive changes pertaining to micro-housing. Minimum/maximum house size varies by lot occupancy requirements in different R zones.		
Single Family, Detached, Alley Lot	Some R	Varies	Not permitted in any residential zone	New proposed text allows development by right. Residential dwelling, provided that the use shall be limited on an alley, subject to the following limitations: (1) The alley lot is wholly within an R-3, R-13, or R-17 zone, an RF zone, or an RA zone; (2) A residential dwelling may not be constructed or converted for a dwelling unit unless there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area. (3) The alley lot has access to an improved public street as follows: (A) Through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or (B) On an improved alley no less than fifteen feet (15 ft.) in width and within a distance of 300 linear feet of a public street.	Subtitle U, 600.1(e)	This is a substantive positive change from earlier versions which only had the 24' alley requirement, which severely limited the number of qualifying lots. Should be extended to all R-zones.
Accessory Dwelling Unit, Attached	All R except 19/20	Varies	Permitted	Permitted. In all R zones, one (1) accessory apartment shall be permitted by right per lot of record subject to the use permissions specified in Subtitle U. Exception: R-19 and R-20 zones special exception is needed.	Subtitle B, 302.1, Subtitle D, 201.2, Subtitle U 201.1(c) and 253.1	
				An accessory apartment shall be permitted in a principal dwelling or an accessory building as a matter-of-right in the R zones, except the R-19 or R-20 zones, subject to the provisions of this section.	Subtitle U 253.2	
				Either the principal dwelling or accessory apartment unit shall be owner-occupied for the duration of the accessory apartment use; Up to two (2) of the requirements specified in this section may be modified or waived by the Board of Zoning Adjustment subject to the following limitations: (a) The owner-occupancy requirement of Subtitle U § 253.5 shall not be waived in any R zones.	Subtitle U 253.5, 253.10	Problematic residency requirement.
				An accessory apartment located in the principal dwelling shall be subject to the following conditions: (a) The house shall have a minimum of gross floor area, exclusive of garage space in the following zones: TABLE U § 253.7(a): MINIMUM GROSS FLOOR AREA: Zones Minimum GFA R-1-A / R-1-B / R-19: 2,000 sq. ft. R-2 / R-10 / R-3 / R-13 / R-17 / R-20: 1,200 sq. ft. (b) The accessory apartment unit may not occupy more than thirty-five percent (35%) of the gross floor area of the house; (c) Except as provided in Subtitle U § 253.8(d), if an additional entrance is created to a house it shall not be located on a wall of the house that faces a street; and (d) An additional entrance to a house in an R-3, R-13, R-17, or R-20 zone may be located on a wall of the house that faces a street provided it is below the main level of the house.	Subtitle U 253.7	Note: Micro Showcase comments previously submitted to OP on this section in 2014 resulted in substantial improvements. However 2000R2 is still a high bar for R-1 and R-19 zones.
Accessory Dwelling Unit, Detached			Currently not permitted in any residential zone			
	All R except R-19/20			An accessory apartment in an accessory building in an R zone, except the R-19 and R-20 zone, shall be permitted as a matter-of-right subject to the following conditions: (a) There shall be permanent access to the accessory building apartment; (b) The dwelling use of the accessory building shall be coterminous with the permanent access; (c) The permanent access shall be provided by one (1) of the following: (1) A permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to public street through a side setback or shared recorded easement between properties; (2) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or (3) The accessory building is within three hundred feet (300 ft.) of a public street accessible through an improved public alley with a minimum width of fifteen feet (15 ft.); (d) An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot; (e) An accessory building that houses an apartment shall not have a roof deck; and (f) An accessory apartment proposed within an accessory building that does not meet the conditions of this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, and subject to the following conditions: (1) The accessory building shall be located such that it is not likely to become objectionable to neighboring properties because of noise, traffic, parking, or other objectionable conditions; and (2) Evidence that there are adequate public utilities for the health and safety of the residents.	Subtitle U 253.8, also note 253.5 above applies.	A substantial win. Current zoning prohibits any new detached ADU's. In earlier rounds these were allowed only by special exception, and they are now by right.
				An accessory apartment proposed in an accessory building not meeting the conditions of Subtitle U § 253.8 shall be permitted as a special exception if approved by the Board of Zoning Adjustment, subject to the provisions of this section.	Subtitle U 253.3	
	All R	450 ft2		Maximum building area for an accessory building in an R zone shall be the greater of thirty (30%) of the required rear setback area or four hundred and fifty square feet (450 sq. ft.).	Subtitle D 1406.1	
	All R	--		Lot occupancy. An accessory building in an R zone as a principal use on a lot other than an alley lot shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy of the zone in which the lot is located.	Subtitle D 1403.1	
	All R	--		Building height. The maximum height of an accessory building in an R zone shall be two (2) stories and twenty feet (20 ft.). The height of an accessory building permitted by this section shall be measured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building.	Subtitle D 1402.1	
	R-19	450 ft2		5' setback from alley, and accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of twenty feet (20 ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of two (2) stories.	1208.3	
	R-20	450ft2		5' setback from alley, and accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of fifteen feet (15 ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of one (1) story.	1208.4	
	R-19/20	100 ft2		In the R-19 and R-20 zones, an accessory building on a property that is not adjacent to a public or private vehicular alley or that is more than five feet (5 ft.) from a public or private vehicular alley may have a maximum height of ten feet (10 ft.) and a maximum building area of one hundred square feet (100 sq. ft.).	1208.5	
RV/trailer/'tiny house'	All	None	Not Permitted	No change, except a 'camping in alleys' prohibition has been added (after sanitation issues with 2 Beyond Studios inhabitants). Proposed text: Camping by the owner of an alley lot on the alley lot in a tent, wagon, van, automobile, truck, or trailer, subject to the following conditions: (1) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or otherwise objectionable conditions; (2) Open fires shall not be permitted; and (3) The use shall not be for more than two (2) consecutive weeks and no more than one (1) month per calendar year.	Subtitle U, 600.1(c)	For more information see: http://www.microshowcase.com/policy/dc-trailer/