

A Case for Change: Removing the Owner-Occupancy Requirement in Pineville, NC's Secondary Dwelling Ordinance

Introduction

Pineville, North Carolina, like many growing suburban areas, faces a mounting housing crisis. Population growth in the Charlotte metropolitan area has placed increasing pressure on smaller towns like Pineville to provide affordable and accessible housing options. One solution is to encourage the construction of secondary dwellings, such as guest houses or garage apartments, which can serve as rental units. However, Pineville's current zoning ordinance, specifically Section 3.3, contains a requirement that restricts the potential of these secondary dwellings: the primary residence on the lot must be owner-occupied.

This proposal argues that the owner-occupancy requirement should be removed. The restriction not only limits the housing supply at a time when it is desperately needed but also infringes upon property owners' rights to lease their property. By removing this requirement, Pineville would align with recent trends across the state, as evidenced by North Carolina House Bill DRH10198-MQ-72, which encourages municipalities to adopt less restrictive zoning regulations. This proposal explores the housing shortage in Pineville, the mobility of homeowners, the legal argument surrounding property rights, and case studies from cities that have successfully removed similar restrictions.

Background on Pineville's Secondary Dwelling Ordinance

The specific ordinance in question is located on page 60, Section 3.3 of Pineville's zoning regulations. It defines secondary dwellings as accessory units that may be either attached or separate from the principal residential building, provided they meet the town's zoning regulations. However, it imposes an owner-occupancy requirement, meaning the homeowner must reside in the primary dwelling to rent out a secondary dwelling.

This provision likely originated as a way to maintain neighborhood stability and prevent absentee landlords from operating multiple rental properties on a single lot. However, as Pineville's housing needs have evolved, this restriction has become a barrier to efficient land use. Removing the owner-occupancy requirement would allow homeowners to rent secondary dwellings more freely, thus contributing to the town's housing supply.

An analysis into the likely Intent Behind the Owner-Occupancy Requirement and Rebuttals

Maintaining Neighborhood Character

Intent: The assumption is that if the homeowner lives on-site, they will be more invested in maintaining the property and ensuring that it integrates smoothly with the surrounding neighborhood. The fear is that absentee landlords might not care for the property, leading to a decline in neighborhood standards.

Rebuttal: This concern is increasingly outdated in modern housing markets. Many landlords, including myself, maintain high standards for their rental properties, regardless of whether they live on-site or not, because neglecting property results in financial losses. In fact, studies have shown that there is little difference in property upkeep between on-site owners and absentee landlords who hire professional management companies to oversee their properties (Journal of Urban Economics).

Preventing the Proliferation of Absentee Landlords

Intent: The concern may be that removing the owner-occupancy requirement will lead to an influx of absentee landlords, changing the character of the neighborhood by increasing the number of rental properties.

Rebuttal: There is no evidence to suggest that removing the owner-occupancy requirement will lead to a dramatic increase in absentee landlords. In fact, many cities that have removed similar restrictions, such as Austin and Nashville, have not seen an overwhelming influx of absentee landlords. Instead, they have seen a modest increase in rental units, which provides much-needed housing options while maintaining neighborhood character. Occupancy limits or rental duration restrictions are still applicable where the unit is a rental or owner-occupied dwelling.

Encouraging Stable Communities

Intent: The owner-occupancy requirement may be seen as a way to promote stable, long-term communities by ensuring that owners are more likely to stay in the area and maintain their property.

Rebuttal: While stability is important for communities, homeowners tend to move frequently, as evidenced by the statistic that the average homeowner moves every seven years (National Association of Realtors). This means that even with an owner-occupancy requirement, the homeowner may move, leaving the secondary dwelling vacant and unused. Removing this requirement would not destabilize communities; rather, it would allow more efficient use of properties, providing valuable rental options for others in the community. Additionally, renters themselves can contribute to a stable, vibrant neighborhood, and long-term rental agreements can foster community bonds similar to those of homeowners.

Ensuring Accountability for Tenants

Intent: The idea behind this is that a homeowner living on-site would provide better oversight and ensure tenants are accountable for their behavior, thus maintaining peace and order in the neighborhood.

Rebuttal: Accountability can be ensured through proper leasing agreements, tenant screening, and local ordinances related to noise, nuisance, and other behaviors. Landlords have a strong financial incentive to manage tenant behavior, as disruptive or irresponsible tenants can cause damage to property and reduce its rental value. As part of the Insurance requirements for rental properties, policy issuers require landlords to conduct background checks and credit check on tenants to secure policies.

Housing Shortage in Pineville

Pineville, NC, is currently facing a housing shortage. As a town situated within the rapidly growing Charlotte metropolitan area, Pineville has experienced a population increase that has outpaced the available housing stock. This has contributed to the scarcity of rental housing units, particularly in the affordable housing sector.

Several factors contribute to this shortage:

1. **Population Growth:** Pineville's proximity to Charlotte and the overall economic growth in the region have spurred an influx of new residents, which has increased demand for housing. However, housing development has not kept up with this growth, exacerbating the shortage.
2. **Limited Housing Supply:** Although new residential construction projects, such as townhome developments and apartment complexes, are underway, they have not yet been sufficient to meet the current housing demand in Pineville.
3. **Affordable Housing:** Like many areas in North Carolina, Pineville is affected by the statewide affordable housing shortage. There is a particular deficit in affordable rental units, leaving many low-income residents struggling to find suitable housing options. This challenge is part of a broader regional and state-level housing crisis.

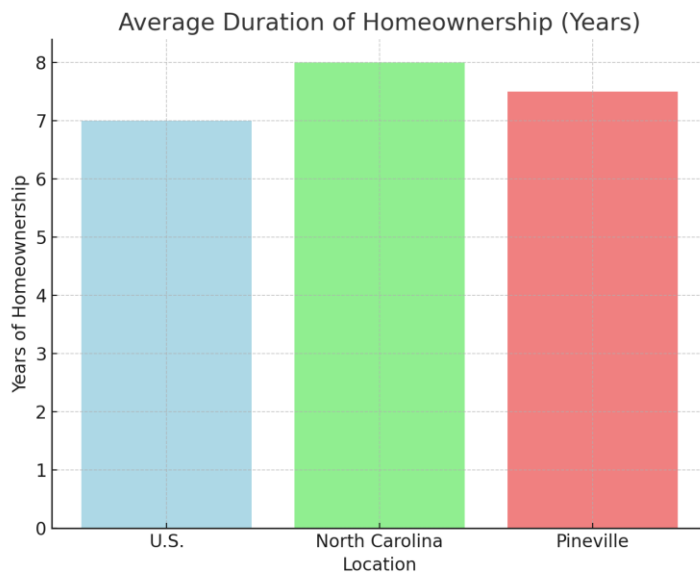
Secondary dwellings, such as ADUs, provide a practical solution to the housing shortage. However, Pineville's owner-occupancy requirement limits the availability of these units. By removing the restriction, the town could unlock a new supply of rental housing without having to develop large new housing complexes, preserving the residential character of existing neighborhoods.

Homeowner Mobility and Vacancy Risks

Homeowners in the United States tend to move frequently, with national statistics showing that the average homeowner moves every seven years (National Association of Realtors). In Pineville, this trend likely holds true. With such frequent mobility, enforcing an owner-occupancy requirement could result in secondary dwellings being left vacant when the homeowner moves. These secondary units, which could otherwise provide valuable rental housing, remain off the market because of the ordinance.

Vacant properties have been shown to contribute to increased crime rates in neighborhoods. According to a study by the Urban Institute, areas with higher numbers of vacant units experience a 3% to 6% increase in crime rates, particularly property crimes like burglary and vandalism (Urban Institute, 2018). Additionally, The National Vacant Properties Campaign reported that properties left vacant for extended periods are often targets for illegal activities such as squatting, arson, and drug-related offenses (National Vacant Properties Campaign, 2020). The presence of vacant properties can lead to a decline in the neighborhood's overall safety and community well-being.

If Pineville were to remove the owner-occupancy requirement, homeowners would have the flexibility to rent their secondary dwellings even if they no longer live on the property. This would not only increase the housing supply but also provide a potential source of income for homeowners who are no longer in a position to occupy the property themselves. Reducing vacancies by making secondary dwellings available for rent would help prevent potential crime issues associated with vacant properties and create a more secure environment for the community.



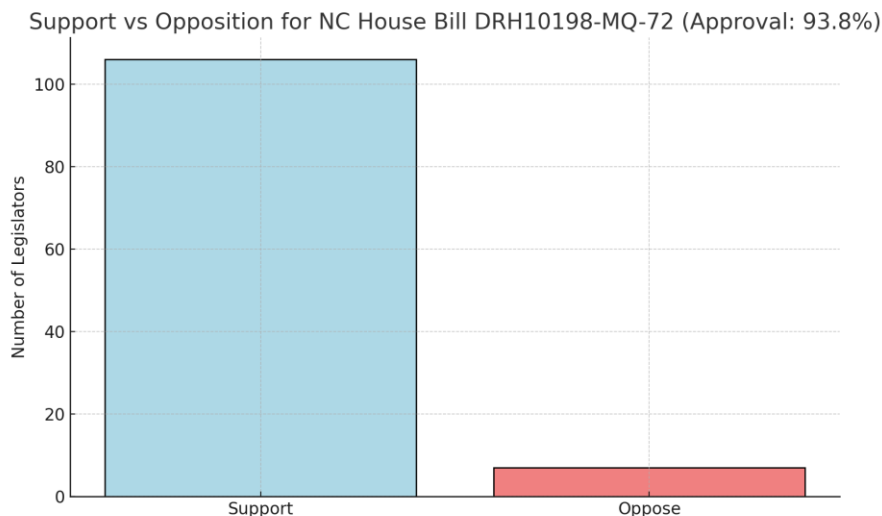
Infringement on Landowners' Rights

The concept of the 'bundle of rights' in property law refers to the legal rights that come with property ownership, including the right to lease, sell, and control property. By enforcing an owner-occupancy requirement, Pineville is restricting property owners' ability to fully utilize their land. Specifically, the ordinance infringes upon the right to lease property freely, limiting how homeowners can manage their secondary dwellings.

For many homeowners, the ability to rent out a secondary dwelling represents an important source of income, whether to offset mortgage payments or to fund future investments. By preventing homeowners from renting their property unless they live on-site, Pineville is removing a potential income stream for property owners. This infringes on the landowners' rights to make the most efficient use of their property and hampers their financial independence.

Bipartisan Support for House Bill DRH10198-MQ-72

North Carolina House Bill DRH10198-MQ-72 passed with a 93.8% approval rate, receiving overwhelming bipartisan support in the General Assembly. The strong majority of 106 votes in favor versus 7 against demonstrates that flexible housing policies are widely recognized as essential to addressing the housing crisis. Pineville can follow the lead of state lawmakers by removing the owner-occupancy requirement, thus aligning its local policies with broader statewide efforts.



Case Studies from Other Cities that have Removed Restrictions

Austin, Texas

Austin removed the owner-occupancy requirement in 2015 as part of a broader strategy to address its housing shortage. Since the change, ADU construction has increased significantly, providing additional rental housing options in a city where demand is high (City of Austin Development Services).

Phoenix, Arizona

In 2019, Phoenix adopted new legislation that relaxed owner-occupancy requirements for ADUs. This change has resulted in a rise in ADU development, helping the city meet growing demand for affordable housing (Arizona State Legislature).

Nashville, Tennessee

Nashville revised its zoning laws in 2019, allowing ADUs in more areas and lifting the owner-occupancy requirement in certain zones. This move has led to an increase in ADU construction, providing much-needed rental housing (Metropolitan Government of Nashville and Davidson County).

Salt Lake City, Utah

Salt Lake City lifted owner-occupancy requirements in 2018 to promote ADU construction. The policy change has been successful, with a significant rise in ADU permits and increased housing availability (Salt Lake City Planning Division).

Boise, Idaho

Boise updated its zoning regulations in 2020 to encourage ADU construction. Removing the owner-occupancy requirement has helped the city manage its growing population and housing demand (City of Boise Planning and Development Services).

Conclusion

Pineville, North Carolina, faces a housing shortage, and the owner-occupancy requirement in the town's zoning ordinance only exacerbates the problem. By removing this restriction, Pineville can unlock the potential of secondary dwellings, providing more affordable rental units and offering homeowners greater flexibility. The success of cities like Austin, Phoenix, Nashville, Salt Lake City, and Boise shows that lifting owner-occupancy requirements leads to a significant increase in ADU construction and rental availability.

Moreover, North Carolina House Bill DRH10198-MQ-72 provides strong state-level support for this proposed change. With bipartisan backing, the bill encourages municipalities like Pineville to adopt more flexible zoning policies that address housing needs. By aligning with this state legislation, Pineville can ensure that its zoning regulations are consistent with the direction of housing reform across North Carolina.

I have invested significant time and resources into converting the garage located at 1005 Cone Ave, into an ADU. This has included the pulling of permits, payment of all applicable fees, and ultimately ended with the obtainment of the certificate of occupancy. The ADU has been fully approved, yet due to the owner-occupancy requirement, the property cannot be rented out freely. I ask the council, what would you have me do with a fully approved and ready-to-occupy ADU if I am unable to live onsite? This situation highlights the unnecessary burden placed on homeowners who are willing and able to provide additional housing, which could alleviate Pineville's housing shortage.

I am proud to own property in the city of Pineville where we invest in infrastructure, provide clean parks, create learning opportunities in our new library with community center, where we host fairs and other community events. This sense of community lives in the town regardless of owner-occupied vs rental units (as proven by the statistic from AreaVibes; where 57.6% of the housing supply is renter-occupied). I understand that large scale projects are in development / seeking approval to add supply to the community; these include: Miller Farm Subdivision (242 Single family Homes and 98 Townhomes), Preston Park (299 Single Family Homes), Coventry Downs (166 townhomes), Cranford development (18 townhomes) and Livano Pineville LIV Development (Proposed 65 apartments with retail space, and an additional 172 apartments). I however am not a developer with large access to private and institutional funding; I am simply a former proud Pineville resident who invested his life savings into an approved ADU conversion; but my mission is the same: provide affordable, safe, and reliable housing to our beautiful Pineville community.

The time for change is now. Removing the owner-occupancy requirement is a practical and necessary step toward addressing Pineville's housing shortage, restoring property rights, and promoting long-term growth. The removal of the owner occupancy requirement would not negate other restrictions Pineville has in place for allowing the construction of ADUs (Minimum Setbacks, Height restrictions, and Size). I sincerely hope you take my request into consideration. I look forward to hearing from you.

References

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