

## Manufactured Housing Statutes

By John B. Bredin

**A** manufactured home is a structure constructed in a factory and transported as a complete unit to the site where it is intended to be used as housing. Manufactured homes are sometimes called mobile homes. This is a misnomer because, once installed on the buyer's lot, a manufactured house is just as permanent as any traditionally built house. Manufactured housing is not intended to be "mobile" except in its shipment from the factory.

While manufactured housing may be a boon to budget-conscious home buyers, it has not always received a hearty welcome from local governments. Building code officials are used to being able to inspect buildings in the midst of construction, before walls and ceilings are installed and while structural elements, plumbing, and electrical systems are exposed to view. Understandably, they are wary of approving a structure that they could not inspect as it was built—possibly hundreds of miles away, almost certainly in a different jurisdiction—which arrived with structure, pipes, and wiring sealed from view. Also, many people equate "inexpensive" and "prefabricated" with "cheap" and "shoddy." Residents with an investment in a site-built home may urge officials to reject manufactured housing in an effort to keep the "wrong class of people" out of the community.



The result in many communities was—and still is in some places—zoning and other land-use regulations that group manufactured housing (usually termed "mobile homes") with less permanent dwellings such as recreational vehicles and then restrict the supply of such "undesirable" housing by banning it from single-family residential zones or relegating it to mobile home only zones.

The Federal Statute and HUD Code  
A solution put forth in the mid-1970s was meant to assuage the fears of building officials and local government policymakers by creating a common national standard for manufactured housing. The idea was that, with a set of minimum safety standards enforced

throughout the country at the factory level, states and local governments could reasonably rely on the housing produced by a factory outside the jurisdiction. It was with this in mind that Congress adopted the National Manufactured Home Construction and Safety Standards Act in 1975.

Under the act, the U.S. Department of Housing and Urban Development (HUD) is directed to adopt construction and safety standards for manufactured homes in consultation with an appointed National Manufactured Home Advisory Council, the Consumer Product Safety Commission, and relevant state agencies. HUD is authorized to enter factories where manufactured housing is constructed and inspect the work at reasonable times. HUD may delegate this inspection power to state agencies that qualify, and may make grants to such state agencies to assist them in their enforcement of the act. It is illegal to lease, sell, or transport in interstate commerce a manufactured home that is in violation of the act and intended to be leased or sold in the United States. There are civil and criminal penalties and injunctions for violating the act. Defective manufactured housing that violates construction and safety standards under the act or that "constitutes an imminent safety hazard" must be recalled and repaired at the manufacturer's expense.

Under the act, HUD has adopted Manufactured Home Construction and Safety Standards, commonly referred to as the "HUD Code." To ensure that the adoption of such a code was not

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rendered futile through the simple expediency of ignoring it, the act provided that state and local governments could not adopt or retain construction and safety standards for code-covered manufactured homes that were not "identical" to the HUD Code. However, the act exempts structures designed to be installed on a permanent foundation and not removed, so long as they comply with a model building code (such as the National Building Code or the BOCA Code) or "an equivalent local code." This exemption was created to distinguish manufactured housing from what is commonly termed modular housing: a building assembled on site, on a permanent foundation, from components ("modules") constructed in a factory.

The adoption of the act was a vital first step, creating for manufactured homes uniform standards and a system of inspection and certification to ensure the public's safety. However, it was not adequate by itself for the protection and encouragement of manufactured housing. The supremacy language of the act has been interpreted by the courts to supersede local construction and safety standards and regulations but not local zoning and land-use regulations, except where they discriminate between manufactured housing and conventionally built housing to such a degree that they effectively constitute a standard contrary to the HUD Code.

### State Statutes on Manufactured Housing

The other half of the equation was the adoption in several states of statutes prohibiting local governments from discriminating against manufactured housing. Every one of these statutes defines, at least in part, manufactured housing as structures subject to and compliant with the National Manufactured Home Construction and Safety Standards Act. Therefore, the federal act and the state statutes operate as a unified whole.

California provides that a city or county must allow manufactured housing in single-family residential zones. Manufactured housing must be subject to the same development standards as "a conventional single-family residential dwelling on the same lot" with the exception of architectural requirements. Architectural requirements may apply solely to manufactured housing, but may encompass only the roof overhang and roofing and siding material. Local legislative bodies may prohibit the installation of manufactured housing that is more than 10 years old, and may exempt properties listed in the National Register of Historic Places, but cannot "apply any development standards that will have the effect of precluding manufactured homes from being installed as permanent residences."

Colorado provides that a manufactured home must be "installed on an engineered permanent foundation" and have brick, wood, "or cosmetically equivalent" exterior siding and a pitched roof to be protected. Counties are prohibited from adopting zoning or other land-use regulations that "exclude or have the effect of excluding" manufactured housing that meets or exceeds standards equivalent to the county building code. Land-use regulations must be applicable equally to all housing in the particular zone, except that county building codes may provide for "unique public safety requirements such as snow-load roof, wind shear, and energy conservation factors."

Connecticut provides that local zoning regulations must not "impose conditions and requirements" on manufactured homes or the lots they are located upon that are different from those applicable to single- or multifamily dwellings and the lots they are located upon.

Florida's Manufactured Building Act provides that state regulation of manufactured buildings does not supersede local zoning, land-use, fire, or architectural and aesthetic regulations. However, the act also provides that "such local requirements . . . must be reasonable and uniformly applied and enforced without any distinction as to whether a building is a conventionally constructed or manufactured building" and that the permit fees for manufactured structures must equal the fees charged for inspecting site-built housing. While this statute treats manufactured housing as a building issue, the Florida Vehicle Code includes a subchapter

that groups manufactured housing (as defined under the federal act) with recreational vehicles. The code also terms that class "mobile homes" and regulates the sale and leasing of mobile homes through the Department of Highway Safety and Motor Vehicles.

Idaho mandates that every local government must amend its comprehensive plan and land development regulations to permit manufactured housing in single-family residential zones, except for historic districts. The authorization of manufactured housing in single-family zones is to be in addition to mobile home parks and manufactured housing subdivisions. Any standards, special conditions, or procedures for approval must be "clear and objective and . . . not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay." However, local regulations may require manufactured housing outside special zones to have an area of at least 1,000 square feet, a permanent foundation, pitched roof, particular siding and roofing material, and a garage or carport.

Indiana's local comprehensive plans and land-use regulations are required to subject dwelling units and their lots to "identical standards and requirements" for manufactured housing and non-manufactured housing. Special aesthetic standards may apply only to roofing and siding materials. In any case, standards and requirements in local ordinances "may not totally preclude all manufactured homes . . . from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed."

Iowa counties and cities are prohibited from adopting plans or regulations that "disallow . . . a proposed residential structure solely because the proposed structure is a manufactured home." Local ordinances must subject manufactured housing to the same standards as single-family dwellings, and taxes must be assessed against manufactured housing as if it was built on site. Counties are specifically prohibited from requiring permanent foundations of a type incompatible with the design of the manufactured home, and are expressly authorized to require units outside mobile home parks to have "visual compatibility" of the permanent foundation with the nearby houses. Counties are also prohibited from mandating widths over 24 feet or roof pitches so long as the manufactured home complies with the HUD Code, and from regulating manufactured home width in agricultural areas.

Maine requires that municipalities allow manufactured housing on undeveloped lots in single-family residential zones "in a number of locations." Mobile home parks and manufactured housing subdivisions will not satisfy the requirement. In these locations, the local ordinances may not require lots more than 14 feet wide. They may include design criteria such as pitched shingle roofs, permanent foundations, and siding "that is residential in appearance," so long as the design guidelines do not circumvent the purposes of the statute and do not prevent the relocation of manufactured housing legally sited before August 4, 1988. Manufactured housing cannot be prohibited solely on the basis of having been built before the effective date of the federal act or of not being manufactured in accordance with the HUD Code. Modular housing that complies with state construction standards must be allowed in all zones where single-family residences are allowed.

The Maine statute also governs municipal regulation of mobile home parks. Municipal ordinances may not set minimum lots sizes larger than what is prescribed in the statute (6,500 square feet for sewer mobile home parks and 20,000 square feet for non-sewer parks), or prescribe minimum areas for mobile home parks greater than the sum of the lots, road and park exactions, and statutorily required setbacks. They also

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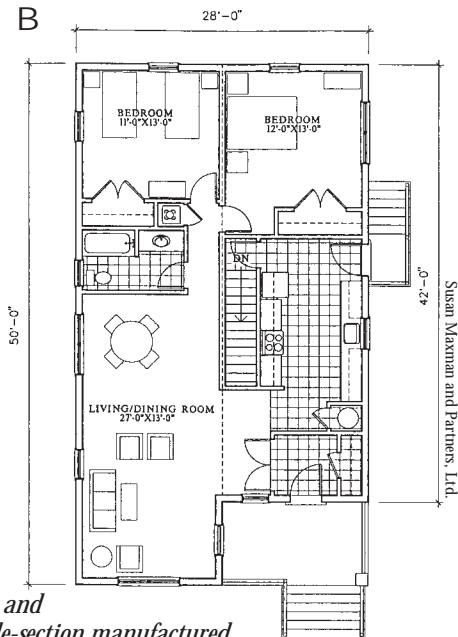
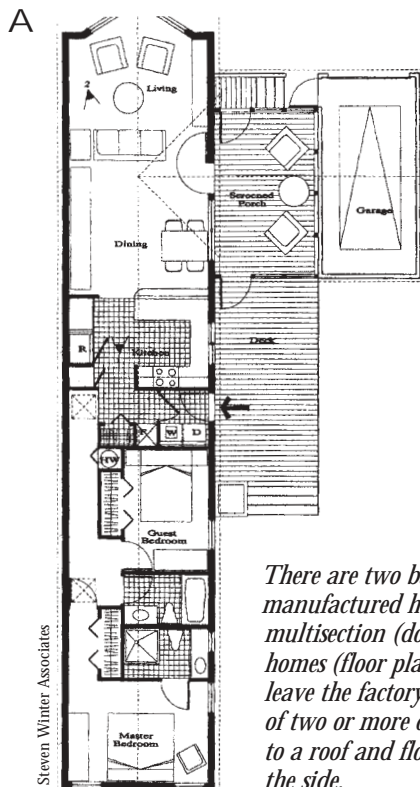
cannot include road frontage requirements that have the effect of requiring manufactured homes to be parallel to the road. Regular municipal road standards cannot apply to mobile home parks. Instead, the applicable road standards are those drafted by the state Manufactured Housing Board and reviewed by a committee of the state legislature.

A Maine municipality cannot require underground electric or telecommunications utilities in a mobile home park. The number of lots in a mobile home park may not be limited with the effect of circumventing the purposes of the statute. Mobile home parks must be permitted to expand and develop "in a number of environmentally suitable locations in the municipality," and sites that are not "reasonably suitable" under factors enumerated in the statute cannot be selected. However, the developer of mobile home parks has the burden of proving that development will not cause water pollution or otherwise violate state or local regulations.

order to "ensure that mobile homes compare aesthetically" with surrounding site-built housing.

Minnesota provides that counties and municipalities cannot prohibit manufactured homes so long as they comply with the general zoning provisions. Manufactured home parks are conditional uses in residential zones allowing two-family or larger buildings. Local ordinances amending density, lot size, and setback requirements do not apply to manufactured home parks built before 1995 if they were in compliance with the density, lot size, and setback requirements at that time.

Nebraska zoning ordinances cannot prohibit the use of land for a residential structure solely because the structure is a manufactured home, so long as the manufactured home bears a seal demonstrating compliance with the HUD Code or the Uniform Standards for Modular Housing Units. The ordinances may subject a manufactured home to the same foundation, utility connection, setback, and square footage



*There are two basic categories of manufactured homes; single-section and multisection (double-section). Single-section manufactured homes (floor plan A) are structurally complete when they leave the factory. Multisection homes (floor plan B) consist of two or more components, each with three walls attached to a roof and floor section. These components are joined at the side.*

### More States

Massachusetts has only one statutory provision regarding local regulation of manufactured homes: When one's house is destroyed, one may, subject only to the state sanitary code, maintain a manufactured home on the premises for up to 12 months while the house is being rebuilt.

Michigan states that local ordinances cannot "be designed as exclusionary to mobile homes generally" whether or not they are in mobile home parks, prescribe standards for installation that are incompatible with the HUD Code or the instructions from the manufacturer, contain "roof configuration standards or special use zoning requirements" applicable only to manufactured homes, or establish construction standards for manufactured housing incompatible with the HUD Code. However, local ordinances may include reasonable aesthetic standards for manufactured homes located outside mobile home parks in

requirements as site-built single-family homes on the same lot. They may also require a minimum area of 900 square feet, a minimum width of 18 feet, a roof pitch of 2.5 inches rise for every foot of run, exterior materials "of a color, material, and scale comparable with . . . site-built single-family construction," non-reflective roof material "which is or simulates asphalt or wood shingles, tile, or rock," and the removal of the wheels, axles, lights, and hitch used in towing. These additional standards must apply uniformly to all single-family dwellings in the same zoning district.

New Hampshire requires municipalities to "afford reasonable opportunities for the siting of manufactured housing." The municipality cannot "completely exclude" manufactured homes by land-use regulation or any other exercise of the police power. Manufactured housing must be located, at the municipality's "sole discretion" in "most, but not necessarily all" residential zones or in manufactured housing parks and subdivisions. Manufactured

housing must comply with all lot size, frontage, and other controls applicable to conventional housing in the same zoning district. Special exceptions or permits cannot be required to locate a manufactured house in a zone unless the same exception or permit is also required for single-family housing. When municipalities allow manufactured housing parks, they must “afford realistic opportunities” for their construction and expansion, and lot size and density requirements for manufactured housing parks must be reasonable. As in Massachusetts, the owner of a destroyed house may establish a manufactured home on their lot for up to 12 months, subject to state and local regulations of water supply and sewage disposal. The statute expressly provides that such a temporary manufactured home cannot become a vested nonconforming use.

New Jersey provides that municipalities “may allow” manufactured homes on the lot of the manufactured home’s owner, and that municipalities are “encouraged” in the review of their land development regulations to consider mobile home parks as a means of providing affordable housing. However, the statute also provides that municipalities cannot exclude or restrict manufactured homes that are at least 22 feet wide and located on the land of the home’s owner, except as the result of regulations equally applicable to “all buildings and structures of similar use.” Trailers, which are defined as recreational vehicles or campers intended to be transportable, are not protected by the statute.

New Mexico prohibits local governments from excluding multi-section manufactured housing (manufactured or modular homes at least 36 feet by 24 feet) from use districts where single-family residences are allowed and from placing greater restrictions on such manufactured homes than apply to stick-built single-family homes in the same use district. The local government can subject manufactured housing to the same zoning regulations as apply to other buildings in the same use district, including historic and aesthetic standards. Local governments may impose reasonable regulations on mobile homes (portable structures intended as dwellings that do not comply with the HUD Code or Uniform Building Code) and may exclude mobile homes from general residential districts, restricting them to mobile home parks or mobile home subdivisions. Municipalities with a population over 100,000 may create a program of inspecting manufactured housing, checking the foundations and utility connections and collecting a reasonable fee for the inspection. The New Mexico statute does not apply to local land development regulations adopted before 1987.

North Carolina prohibits zoning or other regulations that “have the effect of excluding manufactured homes from the entire zoning jurisdiction.” However, the statute also expressly authorizes local governments, “in accordance with the . . . comprehensive plan and based on local housing needs,” to create manufactured home overlay districts within residential zones and to place “additional requirements or standards” on manufactured homes in such overlay districts. Local governments may impose by ordinance “appearance and dimensional criteria” for manufactured homes, for the purposes of “protect[ing] property values . . . preserv[ing] the character and integrity of the community or individual neighborhoods within the community, and . . . promot[ing] the health, safety, and welfare of area residents.”

Oregon, as a part of its affordable housing statute, prohibits cities and counties from excluding manufactured homes (along with attached single-family houses and multifamily buildings, both rental and condominium) from all residential zones. The

comprehensive plans and land development regulations of cities and counties must allow manufactured housing on all land within an urban growth boundary that is zoned for single-family residential use. This is in addition to manufactured homes allowed in manufactured dwelling subdivisions, where cities and counties cannot prescribe a minimum lot size of over one acre but may regulate the roof pitch, exterior siding, and roofing material of manufactured housing.

Tennessee states that the zoning and planning powers do not include any power or authority to exclude any residential building from a residential zone solely because the building is “partially or completely constructed in a manufacturing facility.”

Vermont prohibits municipal zoning regulations that “have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.” The sole exception is for design control districts. Also, the zoning statute may not be construed to prohibit mobile home parks.

Virginia requires that local governments allow manufactured homes on permanent foundations in all agricultural zones and in all use districts, whatever named, where agriculture or forestry is the primary use. Such manufactured homes may be subject to development standards equivalent to those for single-family residential units in the same zone or district, and the development standards in such zoning districts cannot have the effect of excluding manufactured housing.

### Commonalities and Differences

There is a great variety in the approaches of the various states to the issue of local regulation of manufactured housing. The broadest statute, Vermont’s, prohibits all provisions that would have the effect of excluding manufactured housing while permitting comparable “stick-built” housing.

Many of the statutes generally prohibit discrimination against manufactured housing but permit specific kinds of special regulation such as roof pitch, roofing and siding materials, and foundations. These aesthetic regulations often include subjective criteria (such as Maine’s, where siding must be “residential in appearance”) that give local governments leeway to exclude manufactured housing on aesthetic grounds.

Several states specifically require that manufactured housing be allowed in residential areas. Two states, New Hampshire and North Carolina, merely require that manufactured housing be allowed somewhere in the local government’s jurisdiction—it can still be excluded from some or all single-family zones. And two states, Massachusetts and Virginia, protect manufactured housing only under very limited circumstances.

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