I'M HOME
Innovations in Manufactured Homes

NATIONAL CONSUMER LAW CENTER

MANUFACTURED HOUSING RESOURCE GUIDE

Advocating at the Local Level

BACKGROUND

Other resource guides in the I'M HOME advocacy toolkit focus on policy advocacy at the state level. State legislatures have the authority to adopt laws that will govern manufactured home issues throughout the state. However, the maxim that all politics is local applies with special force to manufactured housing issues. Some of the policies that affect manufactured housing and the opportunity to build wealth through homeownership, are primarily – or exclusively – within the purview of local units of government, including towns, cities, townships and counties.

Even for issues that are beyond the purview of the local governmental unit, advocacy on the local level can highlight issues that need to be addressed at the state level. Local advocacy on manufactured housing issues can educate and engage local political leaders, who will then champion those issues at the state level.

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About This Resource Guide

This guide is a resource for anyone interested in promoting the use of manufactured housing as an affordable housing and asset-building strategy through local policy. It examines areas of local policymaking that have potential impact and reviews a sampling of existing and proposed municipal and county ordinances and other policies. The guide draws heavily upon the National Consumer Law Center (NCLC)'s and CFED's experience working with advocates in various parts of the country. This guide:

- Identifies the key categories of local policies that influence the asset-building potential of manufactured housing;
- Specifies key elements of strong local manufactured housing policies in several areas;
- Addresses the authority of local governing bodies to address manufactured housing issues and the constitutional constraints on certain types of local manufactured housing policy; and
- Provides strategy tips for local advocates.

The guide's appendices provide sample language for several types of local manufactured housing ordinances. Additional examples of local ordinances are available online at www.cfed.org/go/mhtoolkit.

KEY CATEGORIES OF LOCAL MANUFACTURED HOUSING POLICY

This guide identifies six categories of local policy that can have a significant impact on the ability of manufactured housing to play a meaningful role in a locality's supply of affordable housing and/or influence the likelihood that a homeowner's investment will grow over time. These are:

- Local zoning policies that allow manufactured homes on fee-simple land;
- Local zoning policies that preserve manufactured home communities;
- Other local ordinances that preserve and protect manufactured home communities;

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- The possibility of obtaining a local moratorium on closure of manufactured home communities;
- Local tax incentives and other financial incentives for preservation of manufactured home communities; and
- The inclusion of manufactured housing issues in the consolidated plan that local jurisdictions submit when they seek Community Development Block Grant (CDBG) or other funding from the U.S. Department of Housing and Urban Development (HUD).

What follows is a discussion of the issues at stake in each of these categories and other factors that advocates might want to consider when crafting a local policy strategy.

LOCAL ZONING POLICIES THAT ALLOW MANUFACTURED HOMES ON LAND OWNED BY THE HOMEOWNER

Zoning laws and ordinances are important for manufactured homes placed on land owned by the homeowner ("fee-simple" land). The concern is that in some communities, manufactured homes are not allowed in zoning districts that are open to other single-family homes.

This section of this guide first examines the role of state and federal law in local zoning, and then the limits that the constitution places on state and local governments' zoning authority. It then focuses on what types of state and local policies will foster the use of manufactured housing on fee simple land, and the arguments in favor of these policies.

> Anyone planning to install a manufactured home on fee-simple land should consult with a local attorney who has expertise in zoning matters to make sure that this use is allowed by local zoning ordinances.

The Role of State Law in Local Zoning

Decisions about zoning are entrusted primarily to local governmental units. However, local governmental units derive their zoning powers from state law. State law may provide some protections for manufactured homes.

About half the states have laws that specifically address zoning restrictions on manufactured homes. However, there is great variation in these laws. Some merely provide that a municipality cannot adopt a zoning ordinance that completely excludes manufactured homes from the jurisdiction. These laws merely require municipalities to allow manufactured homes somewhere within their boundaries – a protection that allows them to be excluded from single-family home districts or even confined to manufactured housing communities (land-lease communities, also known as "mobile home parks").

Other statutes require local jurisdictions to allow manufactured homes in at least some single family residential districts. Some states also require local jurisdictions' comprehensive plans to make some provision for manufactured housing.

Many of the state zoning laws that require local jurisdictions to allow manufactured homes nonetheless allow those jurisdictions to impose a number of requirements on manufactured homes. For example, the law may allow the jurisdiction to treat a manufactured home as a "conditional use," meaning that manufactured homes are not entirely forbidden, but the homeowner has to make a special application and get special permission to install a manufactured home.

Or the state law may allow the local jurisdiction to impose requirements on manufactured homes regarding such matters as square footage, a permanent foundation, setback, and aesthetics. Many of these laws specifically allow a local jurisdiction to impose the same requirements on manufactured homes as it imposes on conventionally built homes in the same zoning district. These provisions at least require some level of fairness in the requirements that are imposed. Some laws accomplish a similar result by stating that local governmental units cannot prohibit placement of a home in a zoning district where the sole reason is that the home is a manufactured home.

The strongest laws allow manufactured homes to be placed as a matter of right, without any special or conditional use permit, in any zoning district where single-family homes are allowed, subject only to the same restrictions and conditions as apply to other single-family homes.

Some of the laws that restrict exclusion of manufactured homes apply only to double-wide manufactured homes or to manufactured homes of a certain width. Some apply only to certain types of local governmental units. For example, the law may only apply to townships and not to cities.

Citations and a chart showing the features of these laws are found on page 4 of this guide. The Manufactured Housing Institute's website, www.manufacturedhousing.org[1], includes more detailed summaries of these laws, as well as state laws that require local jurisdictions to address manufactured housing in their comprehensive plans or that forbid non-uniformity more generally.

In states that do not have laws prohibiting zoning discrimination against manufactured homes, there may still be a law that addresses the issue in some manner. Some states have affordable housing laws that encourage or require municipalities to make provision for a range of housing options, including manufactured homes. Other states have a law that generally restricts discrimination by local jurisdictions against types of land uses that are needed in the area. In addition, some state zoning laws or local ordinances may be susceptible to an interpretation that includes manufactured homes. For example, an ordinance that allows single-family "dwelling units" in residential districts may be interpreted as including manufactured homes.

Most of the state laws that restrict the use of local zoning ordinances to exclude manufactured homes explicitly state that they *do not* invalidate restrictive covenants. A restrictive covenant is not a zoning ordinance, but is a restriction that the seller of the land places on the use of the land. It is fairly common for land to be sold with a restrictive covenant that excludes manufactured homes. A restrictive covenant is part of the title to the property and continues in effect whenever the property is sold. The title report that is made in connection with a real estate sale may indicate whether there are any restrictive covenants.

Chart of State Manufactured Housing Zoning Laws[2]

State and citation(s)	Jurisdiction cannot completely exclude MH	Limits restrictions that can be imposed on MH	Must allow MH in single-family districts	Cannot confine MH to communities	Other protections or non-discrimination requirements
Arkansas: Ark. Code Ann. § 14-54-1604	X	X		X	
California: Cal. Gov. Code §§ 65852.3, 65852.4, 65852.5		X	X		
Colorado: Colo. Rev. Stat. §§ 30-28-115, 31-23-301	X				
Connecticut: Conn. Gen. Stat. §§ 8-2, 8-25		X[3]			
Florida: Fla. Stat. Ann. §§ 320.8285, 553.38		X			
Idaho: Idaho Code Ann. § 67-6509A		X	X	X	
Indiana: Ind. Code § 37-7-4-1106	X	X			
Iowa: Iowa Code §§ 335.30, 335.30A, 414.28, 414.28A, 403.22		X			X
Kansas: Kan. Stat. Ann. § 12-763	X		X		
Kentucky: Ky. Rev. Stat. § 100.348		X			
Maine: Me. Rev. Stat. Ann. tit. 30-A, § 4358	X	X		X	
Michigan: Mich. Comp. Laws Ann. § 125.2307	X	X			X
Minnesota: Minn. Stat. Ann. §§ 366.152, 394.25, 462.357					X
Mississippi: Miss. Code Ann. § 17-1-39	X				
Montana: Mont. Code Ann. §§ 76-2-202, 76-2-302					X
Nebraska: Neb. Rev. Stat. §§ 14-402, 15-902, 19-902, 23-114		X			
Nevada: Nev. Rev. Stat. Ann. § 278.02095		X	X		
New Hampshire: N.H. Rev. Stat. § 674:32	X	X			
New Jersey: N.J. Stat. Ann. §§ 40:55D-104		X[4]			
New Mexico: N.M. Stat. Ann. § 3-21A-3		X[5]			
North Carolina: N.C. Gen. Stat. Ann. § 160A-383.1	X				
Ohio: Ohio Rev. Code §§ 303.212, 519.212		X	X		
Oregon: Or. Rev. Stat. Ann. §§ 197.303, 197.312, 197.314	X	X			X
Tennessee: Tenn. Coee Ann. §§ 13-24-201, 13-24-202					X
Virginia: Va. Code Ann. § 15.2-2290					X
Washington: Wash. Rev. Code §§ 35.21.684, 35.63.160, 35A.21.312, 35A.63.145, 36.01.225		X	X		X

The Role of Federal Law in Local Zoning

Federal law – the National Manufactured Housing Construction and Safety Standards Act – prohibits states and local governmental units from establishing standards regarding construction or safety of manufactured homes that are different from the federal standards.[6] Most courts agree that this federal law does not prevent municipalities from adopting zoning ordinances that exclude manufactured homes.[7] However, at least some courts hold that the federal law does prevent a municipality from adopting a purported zoning ordinance that is actually a guise for regulating the manner of construction of manufactured homes. For example, a court held that the federal law prevented a municipality from adopting a zoning ordinance that excluded manufactured homes unless they met standards higher than the HUD standards.[8]

Constitutionality of Local Zoning Ordinances that Restrict Manufactured Homes

Zoning ordinances are presumed constitutional and valid. In most states, local jurisdictions have a great deal of flexibility in zoning and planning. Although courts formulate the standards in different ways, a zoning ordinance is generally considered constitutional unless it is arbitrary and unreasonable, having no substantial relationship to the public health, welfare, morals, or the general welfare of the community.

Applying these standards, courts generally uphold zoning laws and ordinances regarding manufactured homes as long as the law or ordinance does not completely exclude manufactured homes from the entire jurisdiction. A court may find a local zoning ordinance unconstitutional if it completely excludes manufactured homes, or imposes restrictions that have no rational relationship to the purpose they purport to advance.

In addition, courts in some states have crafted a "fair share" doctrine that requires local municipalities to provide a reasonable amount of low- and moderate-income housing or to allow various types of needed land uses. Courts may find that exclusion of or undue restrictions on manufactured homes violate fair share requirements.

Although it is rare for courts to strike down zoning laws or ordinances that restrict manufactured homes, litigation may be an appropriate tactic if the jurisdiction has a "fair share" policy or if the zoning ordinance imposes especially severe restrictions on manufactured homes.

Advocating on the State Level for Laws Requiring Fair Zoning Treatment of Manufactured Homes

One way to bring about fair zoning treatment for manufactured homes at the local level is to advocate on the state level for a law that restricts local jurisdictions' ability to exclude manufactured homes. The strongest state law is one that requires local jurisdictions to allow manufactured homes in any zoning district where single-family homes are allowed, subject only to the same restrictions that are applied to other homes in that district.

The American Planning Association (APA), a non-profit educational and professional organization, supports this position: "Manufactured homes should be allowed as a type of housing accommodated in residential zoning districts at the permitted density in the district. Issues of design and compatibility arising from manufactured housing zoning parity should be addressed for all forms of housing and should be addressed through generally accepted standards of planning practice."[9]

Advocates should be wary of proposed state laws that appear to prohibit discrimination against manufactured homes, but allow local jurisdictions to impose special restrictions just on manufactured homes or to require special approval for manufactured homes. Laws along these lines may look helpful on paper but accomplish little. Ideally, advocates should work closely with an attorney who is thoroughly versed in the state's zoning laws and can identify these land mines.

In some states, certain local jurisdictions have home rule powers under the state constitution. In these states, the state legislature may have only a limited ability to set rules for local zoning.

Advocating on the Local Level for Zoning that Allows Manufactured Homes on Land Owned by the Homeowner

If there is no state law requiring municipalities to allow manufactured homes in single-family districts, that decision will be up to the local governmental unit. How manufactured housing will be treated in the local zoning ordinances will be, at least in part, a political question. Influencing public opinion by making use of the media is important. Advocates should also get involved in the comprehensive plan process discussed on page 7 of this guide and attend meetings of the local governmental unit.

Local policymakers may have stereotypes about the quality and appearance of manufactured housing. Tours, photos, and videos showing the high quality of modern manufactured homes are an important part of advocacy.[10]

The APA's position may also be helpful. Its policy guide on manufactured housing states: "The use of manufactured housing has been clearly shown to be an economically efficient method of providing infill housing in urban areas. … The use of manufactured housing in new subdivision development has proved to be a sound housing development method." It supports

"the use of manufactured homes where residential uses are permitted consistent with locally adopted plans, ordinances and design requirements and the HUD Code …"[11]

The staff of the local zoning enforcement office may be able to help advocates identify the jurisdiction's current zoning ordinances that affect manufactured housing. A local attorney who handles zoning matters or the attorney who advises the local zoning board can probably help advocates determine the extent of the local jurisdiction's authority over zoning matters and the division of authority between the state and the local jurisdiction.

Key Elements of Zoning Laws for Manufactured Housing on Fee-Simple Land

A strong local ordinance:

- Allows manufactured homes on fee-simple land in all residential districts, including all single-family districts, subject only to the same restrictions and requirements that apply to other residences.
- Does not require a conditional use permit or other special approval for manufactured housing.

A strong state zoning law:

- Applies to all types of local jurisdictions that have zoning authority.
- Requires local jurisdictions to allow manufactured homes on fee-simple land in all zoning districts where single-family homes are allowed, subject only to the same restrictions and requirements that apply to other residences, and without any conditional use permit or other special approval.

USING LOCAL ZONING POLICIES TO PRESERVE MANUFACTURED HOME COMMUNITIES

How Zoning Can Help Preserve Manufactured Home Communities

Local zoning has been used more often to exclude than to preserve manufactured housing communities. However, local zoning has the potential to be an effective tool to preserve these communities. First, advocates can use zoning proactively to preserve manufactured home communities. Second, since a community owner who is planning to close a community and redevelop it often needs to seek a zoning change, fighting a zoning change may be part of a defensive strategy to preserve the community.

Zoning laws, procedures, and standards vary greatly from state to state, and from municipality to municipality within a state. This guide is intended as an overview. Advocates will need to research their own state's laws and the ordinances and procedures in their local jurisdictions. It is important to work with a local attorney who is familiar with the particular state's zoning laws.

How a jurisdiction treats manufactured home communities in its zoning ordinances is primarily a political question. Positive change is likely only if local residents of manufactured home communities and their local allies support the zoning strategy and are prepared to show up in force at public hearings.

This section of this guide first discusses how much zoning authority local jurisdictions have, the constitutional limits on zoning, and the relation between zoning and comprehensive planning. It then focuses on three types of zoning ordinances that can help preserve manufactured home communities:

- "Manufactured home community only" zoning.
- Zoning ordinances that place conditions on community closure.
- Zoning laws that require manufactured home community residents to be notified of proposed zoning changes.

This section concludes with a discussion of arguments for advocates. A later section (see page 10) discusses a related issue – whether local jurisdictions have the authority to adopt protective ordinances that go beyond zoning.

How Much Zoning Authority Do Localities Have?

Before undertaking an effort to persuade a jurisdiction to adopt a zoning ordinance that will help preserve manufactured home communities, the advocate must identify what entity has the authority to adopt and change the zoning ordinances affecting.

There is some variation among the states as to the extent of the zoning authority that local jurisdictions – towns, cities, townships, counties, and other local governmental units – can exercise. Some states delegate this authority almost completely to local governmental units, while other states have laws that place significant restrictions on the authority of local governmental

units. Another variation is that, in some states, the state constitution gives "home rule" powers to certain municipalities. In these states, the state may have only a limited role in defining the zoning authority of home rule municipalities.

There may be more than one local body that must be involved in a zoning change. For example, a zoning board may make an initial recommendation, which a town council then has the authority to accept or reject. Advocates should make sure that they have a plan to persuade all the relevant decision-making bodies of the importance of adopting or changing the zoning ordinance. A local attorney who handles zoning matters, the staff of the local zoning enforcement office, or the attorney who advises the local zoning board can help advocates make sure that they know which decision-making bodies need to be involved.

Constitutional and Other Limits on Zoning

Local zoning ordinances are presumed constitutional.[12] Anyone challenging a local zoning ordinance bears a heavy burden of showing that it is unconstitutional.[13] A property owner has no constitutional right to make the most profitable use, or the "highest and best" use, of his or her land.[14]

Nonetheless, zoning ordinances must meet constitutional guidelines. In general, a zoning ordinance will be struck down as unconstitutional if it does not relate to a legitimate legislative purpose or if it is arbitrary, capricious, or unreasonable.[15]

In addition, if a zoning change deprives a property owner of all economically viable use of the land, it is considered a "taking," and cannot go forward unless the property owner is compensated for the loss. This issue is unlikely to be a concern when the zoning change preserves a manufactured home community. An existing, ongoing manufactured home community is clearly an economically viable use of the land, and in fact is the use that either was created by the community owner or was in operation when the community owner bought the property.

Changing the zoning classification for a parcel of property in a way that increases the restrictions on the property is sometimes referred to as "downzoning." It is not unconstitutional for a jurisdiction to downzone a property, as long as the zoning change meets the general standards for constitutionality and does not destroy "vested rights." A zoning change might destroy vested rights if, for example, the property owner had already obtained building permits and begun site preparation for a change in use. For this reason, when the goal is to preserve a manufactured home community by making a zoning change, it is important to make the change before the community owner takes concrete steps toward changing the use.

It is usually better to work for a zoning change that protects all the manufactured home communities in a jurisdiction, rather than focusing on just one community. First, given the amount of effort it takes to get any zoning change, as a strategic matter it usually makes sense to push for a change that affects all the manufactured home communities in a jurisdiction.

Second, singling out a particular parcel for a zoning change that is different from the surrounding area could be considered "spot zoning" or "piecemeal downzoning." Courts review spot zoning particularly carefully. Among the factors courts consider in determining whether spot zoning is constitutional are 1) whether the zoning change is consistent with the jurisdiction's comprehensive plan (discussed in more detail in the following subsection); 2) the benefits and detriments that the zoning change creates for the property owner, adjacent landowners, and the community; and 3) the size of the area that is rezoned. State statutes may also require some level of uniformity in zoning.

A manufactured home community may occupy a large enough tract of land that a change in its zoning classification will not be considered spot zoning (although some courts hold that the size of the tract is not determinative and that zoning that singles out even a large tract of land can be illegal spot zoning). In addition, a zoning change is less likely to be considered spot zoning if it encompasses more than just a manufactured home community.

Relation of Zoning to Comprehensive Planning

It is common for states to authorize local governmental units to create a master plan or comprehensive plan for land use. The state may require local zoning ordinances to be consistent with the comprehensive plan. Even if this is not an explicit requirement, when courts rule on whether a zoning ordinance is valid they often give great weight to whether the ordinance is consistent with the jurisdiction's comprehensive plan.

Preparation of a comprehensive plan is often a multi-year process. The jurisdiction may hire consultants, research local needs and conditions, and hold public hearings. Once in place, a comprehensive plan may be updated very infrequently. However, in some states the comprehensive plan is amended annually.

The comprehensive planning process is an opportunity for advocates and the jurisdiction to address broad issues about manufactured home communities: their value to the community at large, the importance of preserving and improving them, their location and the public services and amenities they need. Through the comprehensive plan, the jurisdiction can adopt

long-range policies that integrate preservation of manufactured home communities into its overall plans for future growth and development. The comprehensive planning process is also important for fostering the use of manufactured homes on land the homeowner owns, as it sets the broad policies that the jurisdiction will apply to land use and growth questions.

Some state comprehensive planning statutes specifically require comprehensive plans to address the role of manufactured housing. For example, an Idaho statute requires comprehensive plans to include "plans for the provision of safe, sanitary, and adequate housing, including … the siting of manufactured housing and mobile homes in subdivisions and manufactured housing communities and on individual lots which are sufficient to maintain a competitive market for each of those housing types and to address the needs of the community."[16] The APA recommends that consumers, planners, and government at all levels recognize manufactured housing as a legitimate and acceptable alternative to traditional site-built housing.[17]

Advocates should make themselves aware of their local jurisdiction's comprehensive plan and how it treats manufactured homes. They should also monitor their jurisdiction's efforts to create or update its comprehensive plan, and make sure that it treats manufactured homes fairly. Advocates who are pressing for a change in zoning ordinances that will benefit manufactured home communities or manufactured housing in general may need to push for a parallel change in the comprehensive plan.[18]

As with local zoning, a jurisdiction's preparation of its comprehensive plan is largely a political question. Protections for manufactured home communities are likely only if affected residents involve themselves in the process and stay involved.

Types of Strong Zoning Policies to Help Preserve Manufactured Home Communities

"Manufactured home community only" zoning

One strategy for using zoning ordinances to preserve manufactured home communities is to zone the areas where existing manufactured housing communities are located as "manufactured home community only" areas. Adopting such a zoning ordinance means that a manufactured home community is the only use of the land that is allowed, unless the community owner obtains a variance or a zoning change.

As noted above, "downzoning" – changing a property's zoning classification to one that is more restrictive – is constitutional if meets the general standard for constitutionality and does not destroy "vested rights." It is important to be proactive with a downzoning effort, so that the zoning change is in place before a community owner takes steps to redevelop the community.

Some jurisdictions require downzoning to be justified by a change in the surrounding community, or a showing that the original zoning classification was a mistake, at least when the downzoning targets just a single parcel or a few parcels. Some states require special protections for the property owner when a zoning change targets just a single parcel or a few parcels.

A zoning change that does not restrict the land to manufactured home communities only, but allows other uses as well, may be workable in some cases. The goal of preservation of the manufactured home community may be preserved as long as the zoning ordinance does not allow uses that would be significantly more profitable than a manufactured home community. For example, if the property is zoned to allow manufactured home communities or agriculture, it is unlikely that the community owner would close the community in order to devote the land to agriculture. By allowing a broader range of uses, it may be possible to apply the zoning category to a larger area than just the manufactured home community. The ordinance from the town of Tumwater, Washington, included as Appendix A, is an example.

There are many arguments that can be marshalled in favor of "manufactured home community only" zoning. First, it merely preserves existing land uses. It does not require community owners to make any changes. Second, in states that have "fair share" requirements, it helps ensure that the community will meet these requirements, by preserving affordable housing.

In addition, preservation of manufactured home communities prevents disruption that will damage the larger community if families and needed workers are forced to relocate. There are particularly strong arguments in favor of the use of zoning ordinances to preserve manufactured home communities if the jurisdiction's comprehensive plan contemplates continued use of that area as a manufactured home community, or relies on the existing manufactured home communities as one source of affordable housing.

If community owners oppose "manufactured home community only" zoning, one response is to write the ordinance so that it allows community owners to petition for future zoning changes or variances. However, advocates should make sure that the ordinance (or state law) requires residents to be given advance notice of any petition for a zoning change or variance and allows residents to participate fully in the proceeding and any appeals. (See page 9 of this guide).

Another response to opposition by community owners is to work a tax break into the zoning ordinance. For example, the zoning ordinance might allow community owners to apply for a "manufactured home community only" zoning designation. Communities that were granted this zoning designation would pay a lower real property tax rate. One way to set a lower tax

rate might be to provide that such a community will be taxed on the basis of its value as a manufactured home community, not on the basis of any other more profitable use. Local tax issues are discussed in more detail on page 13 of this guide.

Ordinances that place conditions on closure of the community

Often a community owner who is planning to close a community must seek a zoning change in order to develop the property for some other use. For example, if the community is in a zoning district that allows single- and multi-family residential use, and the community owner wants to turn it into a shopping center, the community owner will have to ask that the property be rezoned to some category that allows business or commercial uses.

A zoning ordinance can specify that, before approval of a zoning change that will result in the closure of a manufactured home community, the community owner must deal with relocation issues. The ordinance might require the community owner to:

- Present a relocation plan that shows that the residents will be able to find other nearby communities where they can move their homes.
- Move the residents' homes, and bear the expense of disposing of any homes that cannot be moved.
- Pay relocation expenses to residents.
- Compensate homeowners for the value of homes that cannot be moved.
- If the community is being sold to a developer, allow residents and community groups the opportunity to match the sales price.

A sample ordinance requiring a community owner to submit a relocation plan is included in Appendix C.

While many community closures require a zoning change, not all do. A municipality may have the authority to adopt an ordinance placing conditions like these on any closure of a manufactured home community, whether or not the community owner is requesting a zoning change.

The strongest argument in favor of placing these sorts of conditions on closure is the need to reduce the crisis caused by closing a manufactured home community. By putting these requirements in place before a community closes, the jurisdiction will make sure that, if a community closes, the closure will be at least somewhat orderly, with a plan for relocating families.

In addition, placing these sorts of conditions on rezoning may deter a community owner from closing a community. A community owner who will have to bear more of the costs caused by a closure, rather than expecting the residents and the community at large to bear them, will be less likely to close a community.

Building a requirement of a resident purchase opportunity into any zoning change is even more far-reaching, as it attacks the underlying problem and allows the residents themselves to buy and preserve the community. However, once a community is being sold for redevelopment, it is often too expensive for residents to buy it unless a non-profit organization or governmental unit subsidizes the cost. A state statute or local ordinance that provides a purchase opportunity whenever a manufactured home community is sold is far more effective. As discussed on page 10 of this guide, Suffolk County in New York State has a local ordinance that requires residents to be granted a purchase opportunity whenever a community is sold.

Requirement to notify manufactured home community residents of proposed zoning changes

The typical state zoning law requires the zoning authority to notify neighboring landowners when a property owner files a petition for a change of zoning. A few states, including Florida, Idaho, South Carolina, and Washington, have laws that specifically require community owners to notify residents of a manufactured home community of any application for a zoning change.

Giving manufactured home owners notice of zoning changes that may affect the community, and the opportunity to participate in the local government's decision-making process that will determine whether they lose their homes, is a matter of simple fairness. Typically, zoning laws require neighboring landowners to be notified of an application for a zoning change, and give them the right to participate in the process. Yet the effect of a zoning change on neighboring landowners is merely indirect – the new use might create more noise or traffic, or be less aesthetic, or make the neighborhood less family-oriented. The zoning change might result in some reduction in the value of the neighboring properties.

By contrast, a zoning change that affects the land on which a manufactured home sits has a direct, immediate, and often disastrous effect on the homeowner. If the land is rezoned for a change in use, the homeowners will all have to move. They may have to find other jobs, their children may have to change schools, and they may have to move far from friends and family. If there are no available spaces in other manufactured home communities, they may even have to abandon their homes, losing what may be their most significant asset. Even if there are spaces available, some homes cannot be moved without major damage.

Where so much is at stake for the manufactured home owners, fundamental fairness requires that they be notified and allowed to participate in any proceeding to rezone the manufactured home community. Allowing home owners to participate also means that the decision-making body – for example, the zoning board or town council – will have all the facts before it. Decisions that are made without hearing from all affected parties are likely to be less sound and less in accord with the public interest.

The following is sample language that could be included in a state law to guarantee that residents of a manufacture home community get notice of proposed zoning changes that would affect their community, and have the same right to object and appeal as neighboring property owners. In some states, municipalities or other local governmental units may have the authority to adopt local ordinances giving residents these rights.

> *Notification.* Within 5 days after the filing an application for a change in zoning of a manufactured home community, the owner of the community shall give notice in writing of the application: 1) to each manufactured home owner; 2) to the directors of any homeowners association that has been established; and 3) to the [any appropriate local governmental authority or statewide organization].
>
> *Rights of owners of manufactured homes in zoning matters.* Owners of manufactured homes that are sited in a manufactured home community are entitled to all rights under state and local zoning laws and regulations that are extended to owners of land that abuts the real estate parcel that makes up the community.

Arguments for Advocates

The preceding subsections spell out arguments for specific types of zoning policies. But the overarching policy issue is the importance of preserving manufactured home communities. Arguments for preservation of these communities include:

- In many areas, manufactured housing is the single largest source of affordable housing, and it is almost completely unsubsidized. Communities cannot meet their affordable housing needs and obligations without manufactured housing.
- Manufactured home communities provide housing opportunities for young families, first-time homebuyers, senior citizens and workers who are essential for local businesses.
- Manufactured home communities have many environmental and efficiency advantages. They use less land than other single-family housing, so more open space can be preserved. Their greater density makes it easier to serve them via public transportation.
- Particularly when land tenure is stable, manufactured home communities can be strong, vibrant, close-knit communities that are assets to the community at large.
- Closure of manufactured home communities not only deprives families of shelter, disrupts the wage earner's employment, and forces children to change schools, but also often deprives the family of its major asset, as manufactured homes often must be abandoned when a community closes.
- Closure of a manufactured home community creates a crisis for local government and social service agencies, as dozens or hundreds of families are left without housing.

OTHER LOCAL ORDINANCES THAT PRESERVE AND PROTECT MANUFACTURED HOME COMMUNITIES

In some states, local governmental bodies may have the authority to adopt ordinances that go well beyond zoning and establish substantive protections for manufactured home owners. A local governmental body that has this authority can adopt highly significant protections for manufactured home owners.

For example, Suffolk County, in New York State, has adopted several ordinances protecting manufactured home owners. One requires manufactured home community owners to give residents advance notice of any sale of their community and an opportunity to purchase the community. The text of this ordinance is reproduced as Appendix D. Suffolk County has also adopted a series of ordinances protecting community residents' fundamental freedoms, such as the right to organize a homeowners' association, and another set of ordinances regulating the sale of manufactured homes.[19]

As part of their land use regulations, local governments can also set standards for manufactured home communities' physical plant – such as roads, electrical service, water supply, trash disposal, pest control, lighting, and the sewer system. A local government may also have the authority to require that each manufactured home community obtain a license. The license requirement gives local government another enforcement tool, as the community owner knows that the license to operate the

Participating in a Zoning Fight

There are many reasons that advocates may need to participate in a zoning battle. They may be fighting an attempt to rezone a manufactured home community. They may be asking a local governmental body to adopt an ordinance that protects manufactured home communities, or that allows manufactured homes in the same districts as stick-built homes.

Local zoning decisions are primarily political questions. The active involvement of local residents – residents of manufactured home communities and their local supporters – is essential.

If you get involved in a zoning battle, keep these tips in mind:

- **Show up in force at the zoning meetings and hearings.** Zoning decisions are legislative decisions made by elected officials or by board members who are appointed by elected officials. It is important to demonstrate to them that the community supports your cause.
- **Expand your impact by forming a coalition.** Neighbors, church groups, housing advocates, and local political leaders may be willing to join your cause. There may be groups on the state level who will get involved in your local issue. Your local group can participate on the state level, too, letting state leaders know about local problems and helping formulate state policy proposals.
- **Get legal advice.** Zoning laws vary from state to state, and zoning ordinances vary from community to community. When advocates are participating in a zoning battle, it is important to get legal advice from a local attorney who knows zoning law. In some areas a legal aid program that offers free legal help to low-income persons may have an attorney who is familiar with zoning law. However, in many communities it will be necessary to find a zoning attorney through a bar association referral service or by seeking recommendations from other attorneys or other people who have litigated zoning issues.
- **Watch the deadlines.** There may be a short time period for appealing a zoning decision.
- **Consider seeking a moratorium on community closure.** As discussed on page 12 of this guide, a moratorium can prevent communities from being closed before the local jurisdiction can adopt new zoning ordinances protecting them. Obtaining a moratorium can also provide an early victory for residents and is a way to build momentum.
- **Remember that zoning decisions are political questions.** Make use of the media and make your views known to your elected officials. Find one or two members of the local governing body who will be your advocates, and work closely with them. When your group appears before public officials, make sure they know that your members are registered voters. Encourage leaders within your group to consider seeking appointments to local boards.

community can be revoked if the community falls out of compliance with the local ordinances. A sample ordinance that requires licensing and sets physical plant standards is included on the companion website for this policy guide.

Persuading a local governmental body to adopt ordinances with these protections can have effects far beyond the local jurisdiction. For example, if a local purchase opportunity ordinance results in resident-owned manufactured home cooperatives, they can serve as an example for the rest of the state. Advocates on the state level can point to the thriving cooperatives already in existence when arguing that the state legislature should adopt a statewide policy.

Detailed information about such policies, and the arguments in their favor, can be found in a separate resource guide, ***Promoting Resident Ownership of Communities***, available at www.cfed.org/go/mhtoolkit.

OBTAINING A MORATORIUM ON REDEVELOPMENT AS PART OF A STRATEGY TO PRESERVE MANUFACTURED HOME COMMUNITIES

How a Local Moratorium Can Help Preserve Manufactured Home Communities

A moratorium is a local ordinance or order that freezes development or redevelopment for a period of time. A moratorium may also be called stopgap or interim zoning.

When coupled with a long-term plan, a moratorium on redevelopment of manufactured home communities can be an effective strategy to preserve manufactured home communities and turn the homes into true assets. For example, a moratorium can preserve communities during a long-term planning process, or while the local legislative body is considering a zoning change that would protect manufactured home communities in the long term.

Constitutional Issues

The U.S. Supreme Court has recognized that a moratorium is sometimes an essential tool for communities that are attempting to create or change their land use plans.[20] A moratorium preserves the status quo. Without a moratorium, any land use plan could be rendered ineffective, as property owners rushed to develop their land while the plan was under consideration. Imposing a moratorium allows a municipality to take the time necessary to consider all views and adopt sound land use policies.

Nonetheless, a moratorium can amount to an unconstitutional taking of property without just compensation in some circumstances. Factors that courts consider include the economic effect on the landowner, the extent to which the moratorium interferes with the landowner's reasonable investment-backed expectations, and the character of the government action.

Taking these factors into account, most courts have agreed that a moratorium on redevelopment is constitutional as long as:

- The moratorium is temporary. Most courts have held that up to a year is allowable, and some have allowed longer periods such as two years.
- The moratorium is necessary while the governmental unit takes some related step, such as considering new land use regulations or solving a problem like inadequate sewer capacity.

Advocates should craft their moratorium proposals with these standards in mind.

If opponents of a moratorium on development argue that it is unconstitutional, effective rebuttal arguments are:

- The economic effect on the landowner is minimal, as the property has already been developed for a business purpose – the manufactured home community – and the moratorium allows the landowner to continue this business.
- The moratorium does not interfere with the landowner's investment-backed expectations. After all, the landowner either bought the land with a manufactured home community on it, or developed the community. In other words, the landowner invested in a manufactured home community, so preserving the community is entirely consistent with the landowner's expectations.
- The government action merely preserves the status quo.

Does a Local Government Body Have the Authority to Adopt a Moratorium?

Whether a local governmental body has the authority to adopt a moratorium depends on state law and varies from state to state. Some states, including California, Colorado, Kentucky, Maine, Michigan, Minnesota, Montana, New Jersey, Oregon, Washington, and Wisconsin, have statutes that specifically give this authority to local governmental bodies.[21] These statutes typically limit the length of a moratorium. In addition, some restrict the circumstances in which a moratorium can be adopted, and some specify the procedure for adopting a moratorium. For example, Washington State's moratorium law requires the local governmental body to hold a hearing and adopt findings of fact justifying its actions. It also limits any moratorium to six months or a year, depending on the circumstances, and sets forth a procedure for extending a moratorium for additional six-month periods.

The majority of states do not have a statute that specifically authorizes a local governmental body to adopt a moratorium. Nonetheless, courts in most (although not all) of these states have ruled that a more general law, giving local governmental bodies general self-government powers or the authority to adopt zoning ordinances, is sufficient to allow them to adopt a moratorium. A local attorney familiar with zoning law or the legal advisor to the local zoning board can help determine whether the local government body has the authority to adopt a moratorium.

Procedure for Adopting a Moratorium

Typically, zoning laws require a local governmental body to publish a notice and hold a hearing or meeting before adopting a zoning ordinance. Some courts have held that a local governmental body can adopt a moratorium without these procedures, however. One reason for this rule is that the purpose of a moratorium is to preserve the status quo while some other matter is being addressed. If the local governmental unit had to give notice and hold a hearing or meeting first, then this purpose would be defeated.

Even if the local governmental unit can adopt a moratorium without advance notice and a meeting or hearing, the state's law is likely to require it to publish notice and hold a meeting or hearing soon after the moratorium is adopted, in order to continue the moratorium in effect.

Key Principles for a Moratorium that Preserves Manufactured Home Communities

Key principles to minimize the likelihood of constitutional and legal challenges to a moratorium on redevelopment of manufactured home communities are:

- The moratorium should be temporary and should be in effect only while some other process is completed, such as adoption of an ordinance or plan, or resolution of a public health issue.
- The moratorium should identify a public purpose that it advances, and should be tailored to advance that purpose.
- The moratorium should not single out one particular parcel of land, but should apply generally to a municipality or zoning district.
- It may be helpful if the moratorium allows some waiver or appeal process that a landowner can invoke for a specific property.
- The local governmental unit may be required to publish notice and hold a meeting or hearing either before or soon after it adopts the moratorium.

Arguments for Advocates

Effective arguments to persuade a local governmental body to adopt a moratorium are that the moratorium is merely a temporary measure, and is tied to some other ongoing effort to address the problem of destruction of manufactured home communities. Vigorously pushing for a longer-term solution at the same time is essential. Arguments in favor of preservation of manufactured home communities are found on page 10 of this policy guide.

Showing the local governmental body an example – or, better yet, several examples – of a moratorium adopted by another community in the state is helpful. A moratorium that protects manufactured home communities is most helpful, but even a moratorium that relates to some other matter at least shows that a local governmental unit can adopt a moratorium.

A sample moratorium ordinance from Florida, prohibiting redevelopment of manufactured home communities, is included as Appendix E.

As with any effort at a local governmental level, it is important for affected residents to appear in person at the meetings of the local governmental body to demonstrate their concern for the issue.

> Once you get a moratorium, don't relax. A moratorium only freezes development temporarily, while you work on a longer-term solution.

LOCAL TAX AND OTHER FINANCIAL INCENTIVES THAT FOSTER RESIDENT OWNERSHIP OF MANUFACTURED HOME COMMUNITIES

Several states have enacted laws that provide tax incentives that encourage manufactured home community owners to sell their communities to residents. These laws are listed in Promoting Resident Ownership of Communities, available at www.cfed.org/go/mhtoolkit. These laws foster long-term preservation and improvement of manufactured home communities. They encourage resident ownership, which stabilizes the residents' living situations and means that their homes are truly assets.

Regardless of whether a state has adopted a tax incentive, advocates may wish to consider advocating for such a policy on the local level. The types of local taxes that are imposed, and the level of flexibility on the part of local governments in the

imposition of local taxes, vary from state to state. Advocates seeking to create local tax incentives should investigate their own locality's local taxes and how much flexibility the local jurisdiction has in waiving or reducing taxes for certain categories. Possible areas where a local jurisdiction might be able to adopt a policy that promotes resident ownership include:

- Land transfer taxes. A jurisdiction might waive or reduce transfer taxes when a community owner sells the community to the residents.
- Local income taxes. A jurisdiction that imposes a local income tax might provide a tax break on capital gains when a community owner sells the community to residents.
- Annual property taxes. Especially if residents form a nonprofit corporation as the means of owning a community, local tax advantages may be possible.
- Business licensing fees. A jurisdiction might waive or reduce business licensing fees for resident-owned communities.

While the last two tax breaks do not operate as an incentive to community owners to sell to residents, they reduce residents' costs to operate a community, making it easier for them to offer a competitive bid for the community.

In devising a local tax incentive strategy, advocates should keep in mind that many local governments are highly dependent on these taxes. A tax incentive could backfire if it made community owners more willing to sell to residents, but led local government officials to oppose such sales. It is best to propose a tax break at a time when the local government is not facing a financial crisis.

On a case-by-case basis, a local governmental unit may also be willing to forgive tax liens or liens for municipal services that were imposed when the community owner owned the community. The local governmental unit may be willing to forgive these liens if it will make it possible for the residents to buy the community.

Another type of local tax incentive gives a tax break to any manufactured home community as long as it continues in operation, not just when it is sold to residents. For example, the local jurisdiction might provide that a manufactured home community would be taxed at a lower rate as long as it continued as a manufactured home community, or if the community owner certified that the community would not be redeveloped for a certain number of years.

An example of such an ordinance, from Snohomish County, Washington, is available online at www.cfed.org/go/mhtoolkit. However, the tax break provided by this ordinance applies only to community owners who voluntarily apply for it and commit to continue operating the community for a period of years, and as of 2009 no community owners had applied. Advocates exploring this approach should consider a non-voluntary ordinance or a tax break that is enhanced enough to attract community owners.

PROMOTING MANUFACTURED HOUSING IN THE CONSOLIDATED PLANNING PROCESS

What is the Consolidated Planning Process?

Whether a local government has an obligation to create a *comprehensive* plan is a question of state law. By contrast, the requirement to create a *consolidated* plan is imposed by federal law in order for a state or an "entitlement community" – i.e., a local governmental unit that is eligible to receive program funds directly – to receive funding from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG) program and the HOME Investment Partnership program. HUD regulations spell out the steps that a state or entitlement community must take each year to create and update its consolidated plan.

A jurisdiction's *comprehensive* plan will spell out in broad terms how the jurisdiction wants to grow, what land it wants to preserve as open space, where it wants to locate parks and industry, and what kind of residential areas it envisions. A jurisdiction usually relies on its comprehensive plan when making decisions about zoning. A *consolidated* plan is a narrower document, designed to meet requirements for HUD funding.

How Participation in the Consolidated Planning Process Can Help Preserve and Improve Manufactured Home Communities and Foster Use of Manufactured Housing in Affordable Housing Projects

Unlike a comprehensive plan, a jurisdiction's consolidated plan is not directly tied to zoning. Instead, HUD uses the plan to evaluate whether to provide CDBG and other federal funding to the locality. Specifically, any funding proposal that the jurisdiction submits to HUD must be consistent with its consolidated plan. In addition, when HUD conducts its annual review of the jurisdiction's performance, it evaluates whether the jurisdiction has complied with its consolidated plan.

Making preservation and improvement of manufactured home communities part of the jurisdiction's consolidated plan will give advocates a stronger basis for objecting to actions by the local governmental unit that would undermine those goals. For example, advocates would have a stronger basis for objecting to replacement of a manufactured home community with a park or highway, whether or not funded through HUD, if the jurisdiction's consolidated plan called for preservation of that community.

Getting preservation and improvement of manufactured home communities into a consolidated plan can also make it easier to obtain CDBG and other federal funding for infrastructure improvements in the community. In many cases, getting CDBG funding for repairs to water and sewer systems has been crucial to enabling residents to purchase their communities. More information about obtaining CDBG and HOME funding for manufactured home work may be found in the resource guide: **Accessing Federal and State Resources to Promote Manufactured Housing as an Affordable Housing Strategy**, to be available in early 2010 at www.cfed.org/go/mhtoolkit.

Advocates can also urge the jurisdiction to make use of manufactured housing when it implements affordable housing projects with HUD funding. Manufactured housing can offer significant cost savings, with the same quality and appearance as site-built housing. Use of manufactured housing for affordable housing projects might be an appropriate part of a jurisdiction's strategic plan or action plan, both of which must be incorporated into the consolidated plan.

If a jurisdiction fails to follow its consolidated plan, HUD can take various steps. For example, it can reduce the jurisdiction's HUD funding, or require the jurisdiction to take corrective action.

How to Get Involved in the Consolidated Planning Process

The first step in getting involved in the consolidated planning process is to determine whether the local governmental unit is required to have a consolidated plan, and what schedule it (or the state) is on for updating the plan. A HUD website[22] lists "HUD Entitlement Communities," together with the contact person in each of these communities who can advise when meetings are scheduled on the plan.

An entitlement community must carry out the following activities, each of which presents an opportunity for advocates to get engaged:

- Develop and follow a "citizen participation plan" that encourages citizen participation in the consolidated planning process. If your local planning office does not cooperate with your request to get involved in the consolidated planning process, ask to see a copy of the citizen participation plan.
- Hold at least two public meetings every year about the plan. One of the meetings must occur during the development of the plan, and one must occur during some other stage.
- Make information about the plan available to the public.
- Set aside a 30-day period for citizens to comment on the proposed consolidated plan. It must also give citizens reasonable advance notice and an opportunity to comment on any amendments to the plan.[23]

What Must the Consolidated Plan Include?

A jurisdiction's consolidated plan must include these components:

- An assessment of the jurisdiction's **housing needs.** This section of the plan must include an estimate of the number of people in need of housing assistance, broken down by categories including low-income families, moderate-income families, elderly persons, and persons with disabilities. It must also identify any disproportionately greater housing needs experienced by any racial or ethnic groups.
- An analysis of the jurisdiction's **housing market,** including the housing available to serve disabled persons and low-income persons with special needs.
- A **strategic plan.** Among other things, the plan must identify what the jurisdiction proposes to accomplish over the coming years. The plan can deal both with affordable housing and with non-housing community development needs, but it must describe the rationale for the affordable housing portion of the plan. The non-housing community development portion of the plan can include a neighborhood revitalization strategy that includes economic empowerment of low-income residents.
- An **action plan** that specifies the activities the jurisdiction will undertake during the coming year.
- A set of **certifications.** These must include, among other things, certifications that the jurisdiction will affirmatively further fair housing and that it will follow a plan to minimize displacement and provide relocation assistance.

The jurisdiction must submit an action plan and certifications every year. The other parts of the consolidated plan must be submitted every five years.[24]

Consolidated Plan Requirements for Non-Entitlement Communities

Smaller communities – generally, cities with less than 50,000 population and counties with less than 200,000 population – can also receive CDBG funding, but they receive it through the state rather than directly from HUD. These smaller communities do not have the same consolidated plan requirements for the CDBG program as entitlement communities (although if a smaller community is participating in the HOME program, it may have to submit a full consolidated plan). Instead, the community submits an abbreviated plan.[25]

An abbreviated plan must contain information about needs, resources, and planned activities for which the jurisdiction is seeking CDBG funding. It must describe the priority needs that the funding will address, and the jurisdiction's specific long- and short-term objectives.

The state contact listed on the HUD website can provide more information about non-entitlement communities in the state.[26]

Working Manufactured Home Issues Into the Consolidated Plan

Affordable housing. Affordable housing is a key topic that a city's or county's consolidated plan must address. In many communities, advocates will find that manufactured housing is the largest single source of affordable housing. They will also discover that manufactured housing in investor-owned communities is at greatest risk of loss, principally by conversion to commercial development. Since the plan must describe the locality's affordable housing needs, and how the jurisdiction plans to address them, it should not be difficult to make the case that the plan must include provisions for the preservation of the jurisdiction's manufactured housing. Advocates can also urge the use of new manufactured homes to expand or upgrade the existing stock of affordable housing.

Fair housing. The jurisdiction must certify to HUD that it will affirmatively further fair housing. It must conduct an analysis of local impediments to fair housing choice, and take action to overcome the impediments it identifies. In addition, the consolidated plan must:

- Estimate the number of families who need housing assistance, broken down by income category and identifying elderly persons, single persons, large families, and persons with disabilities.
- Identify any areas with concentrations of racial or ethnic minorities and/or low-income families.

Manufactured housing is an important housing resource for many of these target populations. A website of an I'M HOME partner, the Housing Preservation Project, has a detailed protocol for extracting census data to establish that a manufactured home community has a concentration of minorities or low-income families.[27] Advocates can use this protocol to demonstrate that preservation of improvement of manufactured home communities is an essential step to further fair housing.

Neighborhood revitalization. The consolidated plan can identify local areas for specially targeted revitalization efforts. This portion of the plan must identify long-term and short-term objectives, such as physical improvements, social initiatives and economic empowerment of low-income residents.

Assisting residents in purchasing or improving their manufactured home community can be an extremely cost-effective revitalization effort. When residents own their communities, they maintain and improve the common areas. If a community's infrastructure has deteriorated, CDBG funding can enable residents to tackle the problem when they purchase the community. Less tangibly but no less important, homeowners in resident-owned communities exercise self-governance and have a far greater investment in the community. Once the land under their homes is secured, their homes become true assets.

Placing manufactured housing on fee-simple land is also a cost-effective way of revitalizing blighted neighborhoods. A number of communities, including I'M HOME partners, have demonstrated the benefits of using manufactured housing as replacement units or infill as part of revitalization efforts.

Anti-displacement and relocation plan. The jurisdiction must have and follow a plan to minimize the displacement of families and individuals from their homes and neighborhoods as a result of HUD-funded activities. A low- or moderate-income person who is displaced as a result of activities funded under the plan is entitled to relocation assistance such as moving expenses and, in some cases, a rent subsidy.

The jurisdiction's anti-displacement and relocation plan must also provide for one-for-one replacement of low- and moderate-income rental dwelling units that are demolished or converted to another use as a result of activities funded under the plan.

However, at least in some regions HUD has interpreted this mandate not to require one-for-one replacement of manufactured homes on leased land that are displaced because of HUD-funded development, unless those units are classified as "real estate" in the particular jurisdiction.

Regardless of HUD's position, advocates have strong arguments that any consolidated plan that contemplates displacement of homes from a manufactured home community should include one-for-one replacement of those rental sites and the homes if they are unable to be re-located. Otherwise, manufactured home communities tend to be considered the optimal place for HUD-funded redevelopment, resulting in the tragic loss of this housing and assets of families that are least able to replace their lost homes.

Even better, of course, is to ensure that the plan does not displace manufactured home community residents in the first place.

Infrastructure of manufactured home communities. The Action Plan portion of the consolidated plan identifies projects that will be undertaken with CDBG funds over the coming year. Infrastructure improvements for a manufactured home community where at least 51% of the residents are low- or moderate-income persons live are eligible for CDBG funding. Obtaining CDBG funding for this purpose can help residents finance the purchase and improvement of a manufactured home community; in some cases, it may be a crucial element of a conversion strategy.

HOME funding for conversion of manufactured home communities to resident ownership. Funding priorities are set by the consolidated plan. Advocates should review the plan of their participating jurisdiction (the local government entity that distributes the funding) to determine how manufactured housing, including conversion to resident ownership, is treated. Advocates should urge direct HOME funding for resident-owned cooperative conversion. In addition, advocates may wish to form community development housing organizations (CDHOs) and apply for the 15% of the HOME allocation that is exclusively available to CHDOs, and the additional 5% of the HOME allocation that may be used for capacity-building activities of CHDOs.

About I'M HOME

I'M HOME, or Innovations in Manufactured Homes, is an initiative of CFED, a national nonprofit organization dedicated to expanding economic opportunities for all Americans. The I'M HOME network includes nonprofit and for-profit, national and local partners who together work toward ensuring that all homeowners, regardless of whether their home is manufactured or site-built, enjoy the same rights and privileges of homeownership, including asset-building opportunities. For more information about I'M HOME, please visit www.cfed.org/go/imhome.

About the National Consumer Law Center

The National Consumer Law Center (NCLC) is the nation's consumer law expert, helping consumers, their advocates and public policymakers use powerful and complex consumer laws on behalf of low-income and vulnerable Americans seeking economic justice. NCLC is the leading consumer legal advocate promoting legal protections for owners of manufactured homes. For more information about NCLC please visit www.consumerlaw.org.

Endnotes

1 The specific web address, last visited on December 2, 2009, is http://www.manufacturedhousing.org/lib/showtemp_detail.asp?id=606&cat=3.

2 Note: This chart includes only zoning laws that specifically address manufactured homes. It does not include state zoning laws that set forth general principles of uniformity or non-discrimination. It also does not include state laws that require manufactured housing to be addressed in local jurisdictions' comprehensive plans but that do not address more specific zoning issues. This chart is intended to help advocates to determine whether their state has a law on the topic of manufactured housing zoning. As these laws are complex and frequently amended, anyone seeking to interpret or apply these laws should obtain the advice of an attorney in that state.

3 Only for homes 22' wide or more.

4 Only for homes 22' wide or more.

5 Applies to multi-section homes only; N.M. Stat. Ann. § 3-21A-4 allows political subdivisions to exclude mobile homes from residential-use districts or confine them to parks.

6 42 U.S.C. § 5403(d).

7 See, e.g., Ga. Manufactured Hous. Ass'n v. Spalding County, 148 F.3d 1304 (11th Cir 1998) (zoning ordinance that imposed roof pitch requirements as aesthetic condition for placement of homes in certain localities not preempted); Tex. Manufactured Hous. Ass'n v. Nederland, 101 F.3d 1095 (5th Cir. 1996) (ordinance barring manufactured homes from areas of city is not preempted).

8 Scurlock v. City of Lynn Haven, 858 F.2d 1521 (11th Cir. 1988).

9 American Planning Assoc., APA Policy Guide on Factory Built Housing (2001), available at http://myapa.planning.org/affordablereader/policyguides/factoryhousing.htm.

10 See also American Planning Assoc., APA Policy Guide on Factory Built Housing (2001), available at http://myapa.planning.org/affordablereader/policyguides/factoryhousing.htm ("Manufacturers are now designing manufactured housing that in many cases is compatible with the demands of infill development and sensitive to older established neighborhoods")

11 American Planning Assoc., APA Policy Guide on Factory Built Housing (2001), available at http://myapa.planning.org/affordablereader/policyguides/factoryhousing.htm.

12 See, e.g., Miss. Manufactured Housing Ass'n v. Board of Supervisors, 878 So. 2d 180 (Miss. App. 2004); In re Village Bd. of Trustees v. Zoning Bd. of Appeals, 164 A.D.2d 24 (N.Y. App. Div. 1990); Huntington Props., LLC v. Currituck County, 569 S.E.2d 695 (N.C. App. 2002); Upper Salford Twshp. v. Collins, 669 A.2d 335 (Pa. 1995); Town of Scranton v. Willoughby, 412 S.E.2d 424 (S.C. 1991).

13 See, e.g., Upper Salford Twshp. v. Collins, 669 A.2d 335 (Pa. 1995).

14 See, e.g., Mack T. Anderson Ins. Agency, Inc. v. City of Belgrade, 803 P.2d 648 (Mont. 1990) (purpose of zoning is not to allow the highest and best use of each parcel, but to benefit the community in general by sensible planning of land uses); Crystal Forest Assocs. v. Buckingham Twshp. Supervisors, 872 A.2d 206 (Pa. Commw. 2005) (zoning ordinance is not invalid because it deprives owner of most profitable use of land).

15 See, e.g., Landon Holdings, Inc. v. Gratton Twshp., 667 N.W.2d 93 (Mich. App. 2003) (constitutional question is whether zoning ordinance reasonably advances a legitimate government interest); Mack T. Anderson Ins. Agency, Inc. v. City of Belgrade, 803 P.2d 648 (Mont. 1990) (zoning ordinance is constitutional if it has a substantial bearing upon the public health, safety, morals, or general welfare of the community); In re Village Bd. of Trustees v. Zoning Bd. of Appeals, 164 A.D.2d 24 (N.Y. App. Div. 1990) (zoning ordinance is invalid only if it is arbitrary and unreasonable, having no substantial relation to the public health, welfare, morals, or general welfare); Huntington Props., LLC v. Currituck County, 569 S.E.2d 695 (N.C. App. 2002) (zoning ordinance must not be unreasonable, arbitrary, or capricious, and must be substantially related to a valid object sought to be obtained); BAC, Inc. v. Board of Supervisors, 633 A.2d 144 (Pa. 1993) (due process requires that zoning ordinance be substantially related to protection of public welfare); Town of Scranton v. Willoughby, 412 S.E.2d 424 (S.C. 1991) (zoning ordinance is unconstitutional only if it is arbitrary and has no reasonable relation to a lawful purpose).

16 Idaho Code § 67-6508(l).

17 American Planning Assoc., APA Policy Guide on Factory Built Housing (2001), available at http://myapa.planning.org/affordablereader/policyguides/factoryhousing.htm.

18 A sample comprehensive plan that addresses manufactured home communities, from Snohomish County, Washington, may be found at http://www1.co.snohomish.wa.us/Departments/PDS/Divisions/LR_Planning/Projects_Programs/Comprehensive_Plan/. Click on General Policy Plan, then on Housing).

19 All of the Suffolk County ordinances are available on its website, http://legis.suffolkcountyny.gov. Click on "Search the Laws of Suffolk County."

20 Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302, 337-340, 122 S. Ct. 1465, 152 L. Ed. 2d 517 (2002).

21 Ariz. Rev. Stat. Ann. §§ 9-463.06, 11-833 (setting standards for moratorium; requiring procedures for adoption); Cal. Gov't Code § 65858 (interim zoning ordinance allowed if it receives at least 4/5 vote of legislative body; 45 day duration, may be extended for 10 months and 15 days and a further one year upon 4/5 vote and notice pursuant to § 65090 and public hearing ; may prohibit uses in conflict with contemplated zoning proposal; other conditions apply); Colo. Rev. Stat. § 106-2-20 (while zoning plan pending, temporary regulations may be adopted prohibiting or regulating the erection, reconstruction, or alteration of any building or structure used for any business, residential, industrial, or commercial purpose; duration not to exceed 6 months); Idaho Code Ann. §§ 67-6523 (moratorium up to 182 days may be adopted if there is imminent peril to public health, safety, or welfare; may be extended by interim or regular ordinance adopted after notice and hearing), 67-6524 (moratorium or interim ordinance lasting up to one year); Ky. Rev. Stat. § 100.201 (interim zoning ordinance allowed; one year duration pending consideration of zoning proposal); Me. Rev. Stat. Ann. tit. 30-A, § 4356 (allowing moratorium only to prevent shortage or overburden of public facilities or because of inadequacy of existing land use laws; may last for 180 days and may be extended for additional 180-day periods if problem giving rise to need for moratorium still exists and progress is being made toward alleviating it); Mich. Comp. Laws § 125.3404 (interim zoning ordinance of one year duration but may be extended for two year period; may prohibit uses in conflict with contemplated zoning proposal; to be considered approved 15 days after zoning commission submits ordinance to legislative body); Minn. Stat. §§ 394.34, 462.355 (interim zoning ordinance of one year duration but may be extended for one year period; may prohibit uses in conflict with contemplated zoning proposal; various conditions are specified); Mont. Code § 76-2-306 (interim zoning ordinance allowed after public hearing preceded by minimum notice of publication 7 days prior to hearing; 6 month duration but may be extended twice for one year period; may prohibit uses in conflict with contemplated zoning proposal); N.H. Rev. Stat. Ann. § 674:23 (temporary moratorium and limitations on building permits and approval of subdivisions and site plans allowed upon recommendation of planning board; duration is one year. [cf. N.H. Rev. Stat. Ann. § 674:25]); N.J. Rev. Stat. Ann. § 40:55D-90 (prohibition of development in order to prepare a master plan and development regulations is prohibited; no moratorium on application for development or interim zoning ordinances shall be permitted except in cases where the municipality demonstrates on the basis of a written opinion by a qualified health professional that a clear imminent danger to the health of the inhabitants of the municipality exists, and in no case shall the moratorium or interim ordinance exceed a six-month term); Or. Rev. Stat. §§ 197.505 to 197.520 (moratorium declarations require written findings to state agency, public hearing); Tex. Local Gov. Code §§ 212.133, 212.1351, 212.136, 212.1362, 395.076 (notice, hearing, and findings required; must show shortage of essential public facilities or other detriment to public health, safety, or welfare; expires after stated period, but procedure for extension; certain restrictions); Wash. Rev. Code §§ 35.63.200, 35A.63.220, 36.70.795, 36.70A.390 (legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption; duration is 6 months but may be extended for one or more 6 month periods upon public hearing and findings of fact); Wis. Stat. Ann. § 62.23 (7)(da) (interim zoning ordinance allowed to preserve existing uses; two year duration).

22 Go to http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm. Halfway down, on the right, under "Related Information," link on "CDBG Local Contacts."

23 These citizen participation requirements are set forth in HUD regulations at 24 C.F.R. §§ 91.100 to 91.115.

24 The requirements for the content of a jurisdiction's consolidated plan are found in HUD regulations at 24 C.F.R. §§ 91.200 to 91.230. The five-year and yearly schedules for revision of the consolidated plan are set forth at 24 C.F.R. § 91.15.

25 The consolidated plan requirements for non-entitlement communities and states are set forth in HUD regulations at 24 C.F.R. §§ 91.235 and 91.300 to 91.330.

26 Go to http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm. Halfway down, on the right, under "Related Information," link on "CDBG Local Contacts." This web page lists both the state CDBG contact and the contacts in entitlement communities within the state.

27 The website is www.hppinc.org, Click on Projects tab, then Manufactured Home Parks, then MHP Resource Library. As of mid-2009, the Housing Preservation Project was planning to update the protocol; if it is not available, check back after a week or two.

APPENDICES: SAMPLE LOCAL ZONING ORDINANCES

These appendices include verbatim samples of language from local ordinances that protect manufactured home communities. These examples are meant merely to illustrate the types of ordinances that some jurisdictions have adopted. Since laws vary greatly from state to state, these examples would have to be adapted by a competent practitioner for use in any particular jurisdiction.

Additional examples of local ordinances are available online at www.cfed.org/go/mhtoolkit.

Appendix A

SAMPLE MANUFACTURED HOME COMMUNITY-ONLY ZONING ORDINANCE

Town of Tumwater, Washington

18.49.010 Intent

The Manufactured Home Park (MHP) zone district is established to promote residential development that is high density, single family in character and developed to offer a choice in land tenancy. The MHP zone is intended to provide sufficient land for manufactured homes in manufactured home parks.

18.49.020 Permitted Uses

Permitted uses within the MHP zone district are as follows:

A. Manufactured home parks in accordance with the provisions of TMC 18.48;
B. Designated manufactured homes on existing single lots of record, in accordance with the provisions of TMC 18.48;
C. Mobile home parks which were legally established prior to July 1, 2008:
D. One single family detached dwelling per existing single lot of record;
E. Parks, trails, open space areas, and other related recreation facilities;
F. Support facilities;
G. Family child care home; child mini-day care center, subject to review by the Development Services Director, the Building Official, and the Fire Chief.

18.49.030 Accessory Uses

Accessory uses within the MHP zone district are as follows:

A. Storage sheds, tool sheds, greenhouses;
B. Private parking garages or carports;
C. Home occupations, as approved by the Director of Development Services;
D. Non-commercial recreational structures which could include but are not limited to swimming pools and recreational ball courts;
E. Clubhouses and community centers associated with manufactured home parks.

18.49.040 Conditional Uses

Conditional uses with the MHP zone district are as follows:

A. Churches;
B. Freestanding wireless communication facilities;
C. Cemeteries;
D. Child day care center;
E. Public and/or private schools;
F. Neighborhood community center;
G. Neighborhood-oriented commercial center;
H. The following essential public facilities:
   1. Emergency communications towers and antennae;
I. Group foster homes;
J. Agriculture;
K. Bed and breakfasts.

[The ordinances also include density regulations for this MHP zone district.]

Appendix B

SAMPLE MANUFACTURED HOME COMMUNITY-ONLY ZONING ORDINANCE

City of Staunton, Virginia

City Code of Staunton, VA available at http://www.codepublishing.com/VA/Staunton/Staunton18/Staunton1845.html

Chapter 18.45
R-6 MANUFACTURED HOME SUBDIVISION
Sections:

18.45.010 General description – Purpose and intent.

18.45.020 Definitions.

18.45.030 Establishment of district.

18.45.040 Establishment of manufactured home subdivision.

18.45.050 Permitted uses.

18.45.060 Uses permitted on review.

18.45.070 Area regulations.

18.45.010 General description – Purpose and intent.
The purpose of this district is to accommodate manufactured home subdivisions as attractive and affordable housing with standards of livability in accord with the goals of health, safety, and welfare consistent and compatible with surrounding land uses and the comprehensive plan for the city. (Zoning ordinance Art. 4, § 6).

18.45.020 Definitions.
"Manufactured home subdivision" means a parcel of land to be divided into three or more lots of less than five acres each for the purpose of siting thereon three or more manufactured homes to be used as single-family residences on said lots to be owned by the manufactured home owner.

"Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Stand" means the area within a lot upon which the manufactured home will be located. The stand must be paved, or made of concrete, or be of a hard-surface, dust-free drained nonerosive surface. The stand shall have permanent water, sewer, power, and utility connections so that the manufactured home may be readily connected to them. (Zoning ordinance Art. 4, § 6).

18.45.030 Establishment of district.
(1) Applicants seeking to have an R-6 district established shall apply therefor to the director of planning for the city. The application shall include the following:

(a) A survey showing the area of proposed rezoning.

(b) The name and address of the record owners of the property to be rezoned.

(c) The name and address of the owners of all properties immediately adjacent to the property to be rezoned, including those properties separated from the subject property only by a street, road, or alleyway.

(2) The application process shall be as set forth in Chapter 18.215 SCC and Section 15.1-493 of the Code of Virginia, as amended. (Zoning ordinance Art. 4, § 6).

18.45.040 Establishment of manufactured home subdivision.
Once a subject property has been zoned R-6 hereunder, persons wishing to establish a manufactured home subdivision therein must meet the requirements of SCC Title 17, subject to the other specific requirements set forth herein. (Zoning ordinance Art. 4, § 6).

18.45.050 Permitted uses.
(1) Manufactured home subdivisions.

(2) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work, and which buildings shall be removed upon completion or abandonment of construction.

(3) Transportation and utility easements, alleys, and rights-of-way.

(4) Accessory uses and structures as permitted by Chapter 18.110 SCC.

(5) Signs, as regulated in Chapter 18.140 SCC.

(6) Home occupations as regulated in Chapter 18.150 SCC.

(7) Co-location of telecommunication antenna and related equipment as regulated in SCC 18.185.020(4). (Zoning ordinance Art. 4, § 6).

18.45.060 Uses permitted on review.
The following uses may be permitted on review by the city council in accordance with provisions contained in Chapter 18.210 SCC:

(1) Churches or similar places of worship, with accessory structures but not including missions or revival tents.

(2) Elementary or high schools, public or private.

(3) Public parks, playgrounds and playfields, and neighborhood and municipal buildings and uses in keeping with the character and requirements of the district.

(4) Libraries, museums, and historical monuments or structures.

(5) Utilities substations.

(6) Plant nursery in which no building or structure is maintained in connection therewith.

(7) Golf courses, or country clubs, with adjoining grounds of not less than 60 acres, but not including miniature courses and driving tees operated for commercial purposes.

(8) Cemeteries.

(9) Social and recreational uses not operated for gain. (Zoning ordinance Art. 4, § 6).

18.45.070 Area regulations.
(1) Size and Density of Use.

(a) A manufactured home subdivision shall have a minimum area of 10 acres. If the subdivision is to be built in sections, each section shall have a minimum area of 10 acres.

(b) For each manufactured home and building accessory thereto, there shall be a lot area of not less than 8,750 square feet and the lot shall have at least 50 feet frontage on a public street within the subdivision.

(c) For each other use permitted hereunder, other than manufactured homes, the lot area shall be adequate to provide the yard areas required by this chapter, and the off-street parking areas required by Chapter 18.125 SCC; provided, that the lot area for a church shall not be less than 30,000 square feet.

(d) There shall be no more than one dwelling unit on each lot.

(e) A manufactured home subdivision shall abut at least 50 feet on a dedicated public street completed to city specifications.

(f) Dwellings and buildings accessory thereto shall cover not more than 30 percent of the lot area.

(2) Setback and Yard.

(a) A manufactured home shall not be sited closer than 25 feet of the front lot line. The front lot line is that line or lines that abut on a public street.

(b) A manufactured home shall not be sited closer than 15 feet of the rear or side lot lines.

(c) For all other permitted uses, the main building shall be sited no closer than 35 feet of any lot line.

(3) Height Regulation.

(a) No manufactured home shall exceed a height of 20 feet measured from mean ground level.

(b) For other permitted uses, no main building shall exceed 35 feet in height measured from mean ground level.

(c) Accessory buildings shall not exceed 15 feet in height.

(4) Skirting and Anchoring.

(a) All manufactured homes shall be completely skirted, such that no part of the undercarriage shall be visible to a casual observer, and with a durable material with a life expectancy of at least five years.

(b) All manufactured homes must be securely anchored to the stand. The anchorage shall be adequate to withstand wind forces and uplift as required by the Virginia Statewide Building Code, as amended, for buildings and structures, based upon the size and weight of the unit.

(5) Off-Street Parking. All lots in a manufactured home subdivision are required to have two off-street parking spaces. (Zoning ordinance Art. 4, § 6).

Appendix C

SAMPLE ORDINANCE REQUIRING RELOCATION PLAN

City of Kent, Washington

12.05.320 Eviction notices for change of use or closure of a mobile home park

A. Before a mobile home park owner may issue eviction notices pursuant to a closure or change of use under Chapter 59.21 RCW, the mobile home park owner must first submit to the housing and human services office a relocation report and plan that meets the requirements of KCC 12.05.330. If applying for a change of use, the mobile home park owner shall submit the relocation report and plan together with all other necessary applications. Once the manager of housing and human services determines that the relocation report and plan meets the requirements of KCC 12.05.330, the manager of housing and human services shall stamp his or her approval on the relocation report and plan and return a copy of the approved plan to the mobile home park owner. If the manager of housing and human services determines that the relocation report and plan does not meet the requirements of KCC 12.05.330, the manager of housing and human services may require the mobile home park owner to amend or supplement the relocation report and plan as necessary to comply with this chapter before approving it.

B. No sooner than upon approval of the relocation report and plan, the owner of the mobile home park may issue the twelve (12) month eviction notice to the mobile home park tenants. The eviction notice shall comply with RCW 59.20.080 and 59.21.030, as amended. No mobile home owner who rents a mobile home lot may be evicted until the twelve (12) month notice period expires, except pursuant to the State Mobile Home Landlord-Tenant Act, Chapter 59.20 RCW.

12.05.330 Relocation report and plan

A. The relocation report and plan shall describe how the mobile home park owner intends to comply with Chapters 59.20 and 59.21 RCW, relating to mobile home relocation assistance, and with KCC 12.05.320 through 12.05.370. The relocation report and plan must provide that the mobile home park owner will assist each mobile home park tenant household to relocate, in addition to making any state or federal required relocation payments. Such assistance must include providing tenants an inventory of relocation resources, referring tenants to alternative public and private subsidized housing resources, and helping tenants to move the mobile homes from the mobile home park. Further, the relocation report and plan shall contain the following information:

1. The name, address, and family composition for each mobile home park tenant household, and the expiration date of the lease for each household;

2. The condition, size, ownership status, HUD and State Department of Labor and Industries certification status, and probable mobility of each mobile home occupying a mobile home lot;

3. Copies of all lease or rental agreement forms the mobile home park owner currently has in place with mobile home park tenants;

4. To the extent mobile home park tenants voluntarily make such information available, a confidential listing of current monthly costs, including rent or mortgage payments and utilities, for each mobile home park tenant household;

5. To the extent mobile home park tenants voluntarily make such information available, a confidential listing of cross annual income for each mobile home park tenant household;

6. An inventory of relocation resources, including available mobile home spaces in King, Snohomish, Kitsap, and Pierce Counties;

7. Actions the mobile home park owner will take to refer mobile home park tenants to alternative public and private subsidized housing resources;

8. Actions the mobile home park owner will take to assist mobile home park tenants to move the mobile homes from the mobile home park'

9. Other actions the owner will take to minimize the hardship mobile home park tenant households suffer as a result of the closure or conversion of the mobile home park; and

10. A statement of the anticipated timing for park closure.

B. The manager of housing and human services may require the mobile home park owner to designate a relocation coordinator to administer the provisions of the relocation report and plan and work with the mobile home park tenants, the housing and human services office, and other city and state offices to ensure compliance with the relocation report and plan and with state laws governing mobile home park relocation assistance, eviction notification, and landlord/tenant responsibilities.

C. The owner shall make available to any mobile home park tenant residing in the mobile home park copies of the proposed relocation report and plan, with confidential information deleted. Within fourteen (14) days of the manager of housing and human service's approval of the relocation report and plan, a copy of the approved relocation report and plan shall be mailed by the owner to each mobile home park tenant.

D. The mobile home park owner shall update with the housing and human services office the information required under this section to include any change of circumstances occurring after submission of the relocation report and plan that affects the relocation report and plan's implementation.

12.05.340 Certificate of completion of the relocation report and plan

No mobile home park owner may close a mobile home park, or obtain final approval of a comprehensive or zoning redesignation until the mobile home park owner obtains a certificate of completion from the housing and human services office. The manager of housing and human services shall issue a certificate of completion only if satisfied that the owner has complied with the provisions of an approved relocation report and plan, the eviction notice requirements of RCW 59.20.080 and 59.21.030, the relocation assistance requirements of RCS 59.21.021, and any additional requirements imposed in connection with required city applications.

12.05.350 Notice of provisions

It is unlawful for any party to sell, lease, or rent any mobile home or mobile home park rental space without providing a copy of any relocation report and plan to the prospective purchaser, lessee, or renter, and advising the same, in writing, of the provisions of KCC 12.05.320 through 12.05.370 and the status of any relocation report and plan.

12.05.360 Administration

The manager of housing and human services shall administer and enforce KCC 12.05.320 through 12.05.370. Whenever an owner or an owner's agent fails to comply with the provisions of KCC 12.05.320 through 12.05.370, the following may occur:

A. The manager of housing and human services may deny, revoke, or condition a certificate of completion, a permit, or another approval;

B. Any other appropriate city official may condition any permit or other approval upon the owner's successful completion of remedial actions deemed necessary by the manager of housing and human services to carry out the purposes of KCC 12.05.320 through 12.05.370.

12.05.370 Appeal

Any appeal from a determination of the manager of housing and human services under KCC 12.05.320, 12.05.340, and 12.05.360(A) shall be an open record hearing filed within fourteen (14) days of the determination in accordance with the procedures established for Process I applications under Ch. 12.01 KCC.

Appendix D

SAMPLE LOCAL ORDINANCE REQUIRING RESIDENT PURCHASE OPPORTUNITY WHEN MANUFACTURED HOME COMMUNITY IS SOLD

Suffolk County, New York

(available at http://legis.suffolkcountyny.gov/).

LAWS OF SUFFOLK COUNTY, NEW YORK, v84 Updated 03-25-2009
PART IV REGULATORY LOCAL LAWS (Chapters 201 -- 500)
Chapter 356, MOBILE HOME SALES

§ 356-6. Right of refusal. [Added 2-16-1988 by L.L. No. 3-1988; 6-20-1989 by L.L. No. 21-1989; 11-13-1990 by L.L. No. 39-1990]

NOTE: Local Law No. 39-1990 also provided as follows:
Section 1. Legislative intent.
This Legislature hereby finds and determines that the current provisions of Chapter 356 of the Suffolk County Code, extending the right of refusal to mobile home owners or tenants when an owner of a mobile home park offers such park for sale, has proven successful in protecting the interests of mobile home owners or tenants.
Therefore, the purpose of this law is to extend this right to those instances in which the owner of a mobile home park loses title to such park to the County of Suffolk for nonpayment of taxes, prior to disposition of such properties by county auction.
Section 5. Applicability.
This law shall apply to any properties lost for nonpayment of taxes on or after the effective date of this law.

A. If the owner of a mobile home park offers a mobile home park for sale or receives a bona fide offer to purchase that he intends to consider or to respond to with a counteroffer, he shall deliver written notice of the offer to all mobile home owners residing within the park within 30 days, stating the price, terms and conditions of sale. Delivery of such written notice shall be in person or by certified mail.

B. The resident mobile home owners, by and through a homeowners' association, shall have a first option to purchase the mobile home park, provided that they meet the price, terms and conditions of the mobile home park owner within 90 days after the date of delivery of the notice, unless otherwise agreed. If a contract between the owner of a mobile home park and the homeowners' association is not executed within such ninety-day period, then, unless the owner of the mobile home park thereafter elects to offer or accept an offer to purchase the mobile home park at a price lower than the prices specified in the notice to the mobile home owners, he has no further obligations under this section.

C. If the owner of the mobile home park thereafter elects to offer or to accept an offer to purchase the mobile home park at a price lower than the price specified in the notice to the mobile home owners, the homeowners, by and through a mobile home owners' association, shall have an additional 30 days to meet the price, terms and conditions of the owner of the mobile home park by executing a contract.

D. This section shall not apply to:

(1) Any transfer by gift, devise or operation of law.

(2) Any transfer by a corporation to an affiliate.

(3) Any conveyance of an interest in a mobile home park incidental to the financing of such mobile home park.

(4) Any conveyance resulting from the foreclosure of a mortgage, deed of trust or other instrument encumbering a mobile home park or any deed given in lieu of such foreclosure.

Appendix E

SAMPLE MORATORIUM ON REDEVELOPMENT OF MANUFACTURED HOME COMMUNITIES

Town of Davie, Florida

AN ORDINANCE OF THE TOWN OF DAVIE, PROVIDING FOR A MORATORIUM ON THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT OF MOBILE HOME PARKS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR VESTED RIGHTS; PROVIDING FOR APPEALS; PROVIDING FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING A TERM; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, several Mobile Home Parks (collectively the "Mobile Home Parks") are located within the Town's boundaries; and
WHEREAS, the Mobile Home Parks serve a critical role in providing affordable housing for those persons who live in, and are employed in, the Town; and
WHEREAS, the existing supply of affordable and workforce housing is insufficient to meet the current demand for affordable and workforce housing needs; and
WHEREAS, the lack of affordable housing in the Town is of particular concern to the residents of the Town's mobile home owners who are being permanently and involuntary displaced as a result of the sale of their Mobile Home Parks to developers proposing to change the land use; and
WHEREAS, the Town finds itself facing increasing pressure concerning the possible redevelopment of Mobile Home Parks in the Town, and such redevelopment pressure could result in the loss of critical workforce and affordable housing units in the Town; and
WHEREAS, by Resolution R-2006-328, dated December 20, 2006, the Town recognized and declared that there is an affordable housing crisis in Davie and mobile home residents have no comparable affordable housing in which to relocate should they lose their residence; and
WHEREAS, the loss of affordable housing provided by the Town's Mobile Home Parks has a detrimental impact on the existing inventory of affordable housing and its availability for those who work and live in the Town; and
WHEREAS, the Town recognizes the need to develop comprehensive plan policies, land development regulations, and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live in, and are employed in, the Town; and
WHEREAS, in order to address this need, the Town plans to set up a Mobile Home Task Force, consisting of Mobile Home Park residents, owners, and those appointees the Council sees fit, to study the problem of a lack of affordable housing within the town, and to develop possible solutions; and
WHEREAS, utilization of the moratorium as a temporary measure to facilitate governmental decision-making, study, and the adoption of comprehensive plan amendments and/or land development regulations, is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and
WHEREAS, the Town has determined that Chapter 723, Florida Statutes does not preempt the Town from enacting a temporary moratorium by virtue of the Town's right to accept or deny the approval of site plans for proposed development within its jurisdictional boundaries; and
WHEREAS, the Town finds it necessary to establish a temporary moratorium on acceptance of development applications that seek development approvals for the redevelopment of MobileHome Parks so that the Town can undertake its study to determine the number of affordable housing units in the Town including Mobile Home Parks, the population served by the Mobile Home Parks,and the affordable housing needs of those residents if the Mobile Home Parks are redeveloped; and
WHEREAS, the provisions of this Ordinance are consistent with the Town's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:
SECTION 1. Recitals. The above recitals are true, correct and incorporated herein by reference.
SECTION 2. Moratorium Imposed. During the time that this Ordinance is in effect as specified herein, there shall be a moratorium upon the issuance of building permits, acceptance of development applications or issuance

of development orders and development permits, as those terms are defined in Chapter 163, Florida Statutes (Collectively "Development Orders") within the Town concerning the matter of redevelopment, modification or conversion of existing Mobile Home Parks to any other use, except as provided herein, as of _____, 2007.
SECTION 3. Exemptions. Exempt from this moratorium is the replacement of mobile homes pursuant to Section 723.041 (4), Florida Statutes.
SECTION 4. Definitions. The following definitions shall be utilized in the application of this Ordinance:
(1) "Mobile Home Park" means any real property that is governed by Chapters 513 and 723, Florida Statutes.
(2) "Mobile Home" has the same definition as set forth in sections 320.01 (2) (a), 513.01(3) and 723.003(3), Florida Statutes.
(3) "Redevelopment" means the proposed removal, replacement, or demolition of existingmobile homes for the purpose of installing, building or constructing on the property single family, multi-family, or other structures other than mobile homes and any appurtenances thereto.
SECTION 5. Vested Rights. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner of a Mobile Home Park to complete development where the property owner can demonstrate each of the following:
(1) A governmental act of development approval obtained prior to the effective date of this Ordinance:
(2) Upon which the owner has detrimentally relied, in good faith, by making substantial expenditures: and
(3) That it would be highly inequitable to deny the property owner the right to complete development.
Any property owner claiming to have vested rights under this Section must file an application with the Town staff for a vested rights determination within 45 days of the effective date of this Ordinance. The application shall be accompanied by a fee established by resolution of the Town Council and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the Town and any other documentary evidence supporting the claim. The Town Council shall hold a public hearing on the application and based upon the evidence submitted shall make a determination as to whether the property owner has established vested rights.
SECTION 6. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of privateproperty or an abrogation of vested rights may pursue such claim unless he or she has first exhausted all administrative remedies.
SECTION 7. Term. The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Town Council, shall automatically dissolve in one (1) year unless otherwise extended in accordance with applicable law, or upon adoption of new comprehensive plan policies and land development regulations concerning affordable housing, the formulation of which shall be expeditiously pursued. Town staff shall institute such steps as may be necessary to form the committee to conduct the study to determine what specific types of housing are provided by the Mobile Home Parks, including affordable and workforce housing and prepare any changes the Town Council directs to amend the Town's comprehensive plan and land development regulations to address the lack of adequate affordable housing and the loss of existing affordable housing caused by the redevelopment of Mobile Home Parks.
SECTION 8. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.
SECTION 9. Effective Date. This Ordinance shall be effective immediately upon its passage andadoption.

RESOLUTION NO. _____.
A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CREATING A TASK FORCE FOR THE STATED PURPOSE OF STUDYING, AND ADOPTING A SOLUTION TO AFFORDABLE HOUSING PROBLEMS WITHIN THE TOWN EXACERBATED BY THE DISPLACEMENT OFMOBILE HOME RESIDENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
WHEREAS, several Mobile Home Parks (collectively the "Mobile Home Parks") are located within the Town's boundaries; and
WHEREAS, the Mobile Home Parks serve a critical rote in providing affordable housing for those persons who live in and are employed in the Town; and
WHEREAS, the existing supply of attainable, affordable and workforce housing is insufficient to meet the current demand for affordable and workforce housing; and

WHEREAS, the Town finds itself facing increasing pressure concerning the possible redevelopment of Mobile Home Parks in the Town, and such redevelopment pressure could result in the loss of critical workforce and affordable housing units in the Town; and

WHEREAS, the loss of affordable housing provided by the Town's Mobile Home Parks has a detrimental impact on the existing inventory of affordable housing and its availability for those who work and live in the Town; and

WHEREAS, the Town recognizes the need to develop comprehensive plan policies, land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live in and are employed in the Town; and

WHEREAS, in order to address this need, the Town plans to set up a task force, in accordance with the provisions of Article V, Division 1, Section 2-74, consisting of mobile home park residents, owners, and those appointees the Council sees fit to study the problem of a lack of affordable housing within the Town, and any possible solutions.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town desires to set up a Task Force, in accordance with the provisions of article V, Division 1, Section 2-74, consisting of mobile home park residents, owners, and those appointees the Council sees fit, to study the problem of a lack of affordable housing within the Town, and develop possible solutions to the displacement of residents due to mobile home park closures. Each Council member shall appoint two (2) members: one (1) representing a mobile home park owner or their designee, one (1) representing a mobile home renter or occupant; and, two (2) At-Large-Positions will be jointly appointed. A quorum is considered to be the majority of members appointed by Town Council, rather than of the total of twelve representatives as defined above.

SECTION 2. Nothing contained in this Resolution shall contradict or supercede the substance of any provision contained in the Town's Charter concerning Advisory Boards/Committees. In the event of a conflict between this Resolution and the Town's Charter, the Town's Charter controls.

SECTION 3. The duration of the term of this Task Force will run concurrently with the Moratorium enacted for the stated purpose of denying redevelopment permits on sites already occupied by existing mobile home parks, but not to exceed one year.

SECTION 4. Meetings will be held not less than monthly during the term of the Task Force.

SECTION 5. In addition to the minutes taken at each meeting by the members of the Task Force asprovided for in Section 2-75, the Task Force shall submit a report by the sunset of their term to the Town Clerk's office for distribution to the Town Council and Town Administrator. Such report shall detail what issues the board/committee is addressing, what the Task Force's various positions are if there are any Task Force recommendations and the accomplishments of the Task Force during their tenure. An oral presentation shall not be made unless requested by the Town Council.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is. for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the remaining portion of this ordinance.

SECTION 7. This Resolution shall take effect immediately upon its passage and adoption.