

Vermont Department of Housing and Community Development  
**Mobile Home Park Guidance for Municipalities**  
September 11, 2017

## 1. Background

Vermont municipalities are prohibited from adopting bylaws that exclude mobile homes and mobile home parks from the municipality. These laws were enacted to protect those living in mobile homes as well as to help preserve and increase the supply of mobile homes because they constitute a significant portion of the affordable housing available in the state. This document is intended to provide municipalities with guidance on ways to meet the statutory requirements for mobile home parks through local zoning and subdivision bylaws.

### a. Statutory Requirements

Vermont law protects not only existing mobile homes and mobile home parks but also any new mobile home parks that may be proposed in a municipality. The relevant provisions are found in the Vermont Statutes, Title 24, Chapter 117 (the Vermont Municipal and Regional Planning and Development Act):

#### **24 V.S.A. § 4412. Required provisions and prohibited effects:**

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded...

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality. 24 V.S.A §4412(1)(B) & (C).

When confronted with this statutory language, it is often assumed that the state is requiring every town to permit the type of large, poorly planned mobile home parks that were established in the 1950's - 70's. While such mobile home parks provide much needed affordable housing in Vermont, they may not be appropriate everywhere. **It is unlawful for a town to adopt bylaws that prevent mobile homes parks but there is no reason for Vermont towns to adopt one-size-fits-all bylaws regulating mobile home parks, and most can, with slight adjustments to their existing zoning and subdivision regulations, permit mobile home parks in the same way that other types of housing are permitted.**

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Now, **in addition to the protections under Chapter 117**, Act 137 of 2012 amended Vermont’s Fair Housing Act (9 V.S.A. § 4503) to add “income” as a protected class for purposes of land use decisions and permitting of housing developments and cross-referenced these anti-discrimination provisions in § 4412(1). The primary intent behind these provisions is to protect affordable housing developments from unlawful discrimination during the permitting process.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

Since mobile home parks are predominantly occupied by lower income households, a municipality should not base permitting decisions on the incomes of their potential residents.

### **b. What is a Mobile Home Park?**

“Mobile home park” is defined in Title 10, Chapter 153, a statute that deals with a broad range of mobile home park issues such as the rights of leaseholders, eviction procedures, and park owner obligations. (See Appendix A, “Mobile Home Park Primer” written by DHCD’s mobile home park staff.)

**“Mobile home park”** means any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park. *10 V.S.A. §6201 (2), further clarified in the Housing Division Rules, Part 1, Mobile Home Parks, Section 2.10.*

In other words, a mobile home park refers to three or more mobile homes located on a parcel or parcels of land under common ownership for non-agricultural, non-recreational purposes.

“Mobile home” is defined in the same section of statute and in effect means all ‘HUD Code’ homes built since 1976 and ‘trailer houses’ constructed in the same manner before the HUD Code was enacted. Therefore; “manufactured home” and “mobile home” are used interchangeably.

(1) **“Mobile home”** means a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, cooling, and electrical systems contained in the structure, and is:

(A) transportable in one or more sections; and

#### **Vermont Mobile Home Park Facts**

- In 2016, Vermont had 241 mobile home parks with a total of 7,106 lots. This equals approximately 3% of all housing units in the State.
- Half of the State’s MHPs have 15 or fewer lots and two-thirds were created before most of the State’s environmental regulations in the early 70’s.
- 95% of Vermont’s mobile home parks are more than 25 years old.

(B) at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

(C) any structure that meets all the requirements of this subdivision except for the size requirements and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and standards established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1).

Mobile homes are thus defined as permanent residences, not recreational vehicles, which can be moved on their own wheels in one piece or in separate, multiple parts. The wheels may be removed once the home is placed but the chassis will remain permanently. Contemporary mobile homes are available in multi-section styles that can be hard to distinguish from other types of housing construction. The presence of the permanent chassis is what separates mobile homes from the wide range of modular and factory-built housing available today.

### **c. Recommendations for Local Regulation of Mobile Home Parks**

DHCD's recommendations to municipalities on updating mobile home park bylaws are summarized in the following four points.

- Remove any reference to the Agency of Natural Resources (ANR) Mobile Home Park Permit requirements (formerly 10 V.S.A. §§6231-6235). This reference should be eliminated because the ANR Mobile Home Park Permit no longer exists. All residential development is required to meet the same statewide Potable Water Supply and Wastewater Disposal Permit requirements now found in 10 V.S.A., Chapter 64, §§1971-1980.
- Address pre-existing (non-conforming) mobile home parks separately from new mobile home parks. If adopting site specific standards for reviewing specific mobile home sites, adopt standards based on the actual dimensions and constraints found in the existing mobile home parks in your town. (See discussion in Section 2 below).
- Allow for new mobile home parks by including mobile home parks in a broader class of multiunit development types permitted by the town and apply review standards on the same terms and conditions as other types of multiunit housing. (See discussion in Section 3 below.)
- Do not apply any "freestanding" mobile home park ordinance (review of mobile home parks by the Select board) as the enabling statute for these ordinances, 24 V.S.A. Ch. 61 §§ 2231-2232, was repealed by the Legislature in Act 120 of 2008 requiring them to be phased out by July 1, 2010, and replace these with up-to-date mobile home park bylaws enabled through Ch. 117. (See discussion in Section 4 below.)

## **2. Regulating Preexisting, Non-conforming Mobile Home Parks**

*(If there are no existing mobile home parks in your municipality, please skip to Section 3.)*

### **a. What is a Pre-existing Nonconforming Mobile Home Park?**

A mobile home park is considered a nonconforming use when the park does not conform to current bylaws but did conform to all applicable laws, ordinances, or regulations prior to the enactment of the current bylaws. These preexisting nonconforming uses are considered "grandfathered," or exempt, from current zoning requirements and may continue to exist and

operate subject to a town's bylaw provisions regarding nonconformities and any specific site standards authorized by 24 V.S.A. § 4412(1)(B).

### **b. What Statute Authorizes the Regulation of Nonconforming Uses?**

Title 24, Chapter 117 of the Vermont Statutes Annotated now requires municipalities to define how nonconformities will be regulated.<sup>1</sup> Prior to the 2004 Chapter 117 amendments, municipalities had been permitted to adopt bylaw provisions regulating nonconformities, but now municipalities *must* adopt such bylaw provisions. Specifically, municipalities may regulate and prohibit the expansion and undue perpetuation of nonconformities by specifying: the time period that constitutes abandonment or discontinuance, so long as the period is at least six (6) months; the extent to which the nonconformity can be repaired or maintained; the extent to which the nonconformity can be changed or expanded; the circumstances when the nonconformity can be rebuilt; and the conditions regulating the relocation or enlargement of the nonconformity.<sup>2</sup>

### **c. To What Extent Can Nonconforming Mobile Home Parks Be Regulated?**

The Mobile Home Park as a Whole, and Not Individual Lots, Must Be Considered the Nonconformity. Generally, nonconforming mobile home parks can be regulated in the same manner as other nonconforming uses. However, there are additional statutory requirements supplementing the general nonconforming provisions referred to above that specifically apply to nonconforming mobile home parks. These requirements were added by the recent Chapter 117 amendments as follows:

If a mobile home park, as defined in 10 V.S.A. chapter 153, is a nonconformity pursuant to a municipality's bylaws, the entire mobile home park shall be treated as a nonconformity under those bylaws, and individual lots within the mobile home park shall in no event be considered nonconformities. Unless the bylaws provide specific standards as described in subdivision (1)(B) of this section, where a mobile home park is a nonconformity under bylaws, its status regarding conformance or nonconformance shall apply to the parcel as a whole, and not to any individual mobile home lot within the park. An individual mobile home lot that is vacated shall not be considered a discontinuance or abandonment of a nonconformity. 24 V.S.A. § 4412(7)(B).

This provision means that if a mobile home park is a nonconforming use, the entire mobile home park must be treated as the nonconformity, and not the individual lots. This effectively allows mobile homes within the park to be rebuilt, replaced, enlarged and repaired without being impaired by the limitations placed on nonconformities for such activities.

This provision also protects the nonconforming status of a mobile home park and the individual lots within a nonconforming mobile home park, from being deemed abandoned or extinguished when a lot is vacated. This is a departure from the traditional way nonconformities are dealt with. Under this section, mobile home parks in their entirety, and not just individual lots, must be abandoned in order for the mobile home park to lose its nonconforming status. Without this provision an individual lot would lose its nonconforming status due to abandonment, would be subject to current zoning bylaws, and could not continue to be used as a mobile home lot.

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<sup>1</sup> 24 V.S.A. § 4412(7) (2004).

<sup>2</sup> 24 V.S.A. § 4412(7)(A)(i)-(vi).

#### **d. New Placement or Replacement of Mobile Home on Existing Mobile Home Lot**

##### Specific Site Standards Can Be Applied to Individual Lots Within Pre-existing Nonconforming Mobile Home Parks.

The 2004 Chapter 117 amendments also enable municipalities to adopt specific site standards for individual lots in preexisting mobile home parks.<sup>3</sup> Specific site standards can be used to regulate the distances between structures and “other standards necessary to ensure public health, safety, and welfare,” provided that these standards do not have the effect of prohibiting the replacement of mobile homes on existing lots. This allows municipalities to establish bylaws that regulate specific features of individual sites within a mobile home park such as lot coverage, minimum setbacks, side yards, height, accessory structures, and parking. **Any such dimensional requirements should be linked to health and safety issues such as adequate space for entry, air circulation and ensuring that the replacement unit, does not obstruct access or utilities.** (See Appendix B for examples of bylaw language with site specific standards for the replacement of mobile homes in mobile home parks.)

That said; **the ability to apply specific site standards to occupied lots within a mobile home park may be limited because zoning bylaws cannot operate retroactively to deprive someone the use of their land.** As a result, specific site standards, such as side yards and setbacks, that could not be complied with by a mobile home located on a lot prior to the adoption of the specific site standards could only be applied when the mobile home lot is vacated, and then reoccupied by a new mobile home. Even when a new mobile home does reoccupy the lot, the specific site standards cannot “have the effect of prohibiting the replacement of mobile homes on existing lots.” This means that if the existing lot with the new mobile home placed on it does not conform to the specific site standards, the standards to the extent that they functionally prohibit the replacement of the mobile home could be challenged by the lot owner. Modern mobile homes are often larger in size than the older mobile homes they are replacing.

When developing specific site standards municipalities should ensure that they are not so restrictive as to have the effect of prohibiting the replacement of older homes with newer mobile homes and can be complied with by the mobile home parks in their community.

#### **ANR Mobile Home Park Regulations**

The Vermont Agency of Natural Resources’ (ANR) on-site wastewater disposal regulations included detailed site design standards for mobile home parks until those rules were overhauled in 2002, at which time the mobile home park standards were eliminated. Many towns adopted the Agency’s standards by reference in their zoning bylaws.

Any zoning regulations that refer to the ANR Mobile Home Park Permit requirements (formerly 10 VSA §6231-6235) should be updated as those standards no longer apply. Municipalities wanting to regulate mobile home park density, site design, and related provisions should develop updated and appropriate standards that meet the town’s specific goals.

<sup>3</sup> “A municipality may establish specific site standards in the bylaws to regulated individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided that standard do not have the effect of prohibiting the placement of mobile homes on existing lots.” 24 V.S.A. § 4412(1)(B).

Municipalities may also choose to define the circumstances under which pre-existing mobile home parks can be expanded. In the case of a request to expand the park, the municipality could rely on the criteria it has adopted for the expansion of all non-conformities per 24 V.S.A. §4412 (7)(A). If there are special circumstances for expanding mobile home parks, municipalities may adopt criteria especially for the expansion of non-conforming mobile home parks. The criteria *might* include:

- allowing for expansion of up to 10% increase in the number of units and/or lot-coverage;
- meeting all applicable infrastructure and development review standards for new development;
- meeting the setbacks and other dimensional requirements for the park as a whole.

In summary, municipalities have several regulatory options when dealing with preexisting mobile home parks including the following.<sup>4</sup>

- Adopt specific site standards that can be applied to individual lots prospectively.
- Simply regulate mobile home parks as a whole the same way all other nonconformities are regulated and not regulate individual lots. Treating mobile home parks in a similar manner as other nonconformities could eliminate duplicative development standards and procedures, and would allow the use of individual lots to be regulated internally by the mobile home park owner through the use of lease conditions.<sup>5</sup>

### **3. Permitting New Mobile Home Parks**

Under the definitions provided in Section 1, “mobile home park” could refer to many different types of housing development in Vermont. Some examples might include:

- A large development of single- and doublewide mobile homes with a network of roads; the development serviced by the entity owning the land and running the park for profit – the type of development we would all recognize as a “mobile home park.”
- A new development of tree-lined lanes with a variety of freestanding, affordable units including three or more that meet the definition of a mobile home. The underlying land is owned cooperatively by the individual unit owners and services provided through an organization created by cooperative agreement of the owners.<sup>6</sup>
- An informal mobile home park with as few as three mobile home units located on land owned by one of the residents with the other units occupied by extended family members, renters or lessees. The resident owning the land could be responsible for providing basic services as well as meeting any permitting and licensing requirements.

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<sup>4</sup> Municipalities should carefully consider the extent of needed regulation. For example, will regulations be limited to factors that impact the exterior of the mobile home park, such as landscaping buffers around the perimeter of the mobile home park and setbacks from public ways, or is a more detailed level of regulation necessary to address factors impacting conditions on the interior of the mobile home park, such as distances between buildings and setbacks from private rights of way. Factors such as necessity and the availability of administrative and enforcement resources should be considered in deciding the extent to which preexisting nonconforming mobile home parks should be regulated.

<sup>5</sup> “[Park residents] shall not create or contribute to the noncompliance of the premises with any applicable provisions of building, environmental or housing and health regulations” 10 V.S.A. §6261.

<sup>6</sup> MHPs with a condominium ownership structure do not meet the definition for MHPs in Vermont Statutes. MHPs with a cooperative ownership structure (common ownership) are protected by all statutes governing MHPs.

In short, municipalities do not need to be constrained by pre-conceived notions of a mobile home park to meet the statutory mobile home park requirements. While the State of Vermont has an interest in maintaining and improving the supply of affordable housing and thus prohibits municipalities from using zoning bylaws to prevent development of mobile home parks, towns can treat new mobile home parks in the same way as other types of housing projects in terms of density and development review standards. The goal is for every town to take reasonable, non-discriminatory measures to accommodate mobile home parks and other types of housing that will help increase the supply of decent affordable housing, in a way that fits the community context.

Local bylaws commonly contain language specifically addressing mobile home parks. A review of randomly selected municipal zoning regulations that contain such provisions suggest they are derived from legislation and regulations dating from the 1950's and 1970's. Unless they were updated recently, these standards tend to perpetuate the outdated development scheme of large-scale, poorly designed mobile home parks. They generally fail to effectively address the special issues regarding pre-existing non-conforming mobile home parks discussed above. Outdated, and ineffectual mobile home park standards do not help communities meet the increasing need for affordable housing in Vermont municipalities today.<sup>7</sup>

Mobile home parks in 21<sup>st</sup> Century Vermont can be very different from those developed in the mid-20<sup>th</sup> century. In small towns with limited infrastructure and administrative capacity, allowing 3-4 unit mobile home parks may be useful in helping to create new affordable housing<sup>8</sup> options. In larger municipalities, cooperatively-owned and -managed mobile home parks could provide housing options for young families and the swelling numbers of elders needing affordable homes in the near future. **The key to avoiding the problems associated with existing mobile home parks is to ensure that the parks, regardless of size, are well-designed and have a management structure that is able to properly maintain the park's infrastructure and services.**

#### **a. Options for Permitting New Mobile Home Parks**

Municipalities can choose from a wide range of techniques for permitting mobile home parks. The strategies chosen should reflect the goals of the municipality as expressed in the municipal plan. Every municipal plan is required to address housing including low and moderate income housing needs per 24 V.S.A. § 4389 (a)(10). When writing or updating a plan, each municipality should consider what types of housing are needed in the municipality and craft goals and strategies that will address the housing needs while furthering other municipal goals.

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<sup>7</sup> A review of a random sample municipal bylaws contains standards for setbacks from public roads, setbacks from private roads, private road widths, landscaping and buffers, minimum lot sizes, lot coverage areas, and number of accessory structures and percentage of floor area of mobile homes. Minimum lot sizes of at least 8,000 square feet (approximately 5 lots per acre) appear to originate from ANR's Chapter 1, Subchapter 6 of the Environmental Protection Rules and former 10 V.S.A. Chapter 153, Sections 6232-6235, repealed in 2001. Common provisions include minimum park sizes of 5 acres, and maximum sizes of 20 acres; at least 15 feet between each structure (Env. Rules; MHP Ordinance statute); and off-street parking requirements (1-2 spaces). While these may be appropriate in some situations, municipalities should craft standards that would result in mobile home parks suited to the community.

<sup>8</sup> Affordable Housing is defined in 24 V.S.A. Section 4303.

A variety of bylaw provisions can be considered for implementing housing goals in general and to address the need to provide for mobile home parks in particular. Assuming provisions for pre-existing mobile home parks are addressed separately as recommended above, the following examples of bylaw provisions can avoid having the effect of excluding new mobile home parks while meeting local standards for new development.

Permitting Mobile Home Parks in a Broader Housing Category – Many towns have chosen to define mobile home parks as a specific use, most often subject to conditional use review, including specific standards for approving new mobile home parks and generally designating densities for mobile home parks at higher densities than for other housing types. While this is theoretically intended to help increase the supply of affordable housing, in reality, few new mobile home parks of any size have actually been approved in Vermont in recent years and the supply of necessary affordable housing remains critically low.

In order to make a wide range of affordable housing options available and attractive to communities and developers, DHCD encourages municipalities to adopt bylaws that permit a variety of housing types in the municipality, with options beyond those typically allowed in local zoning. The concept of increasing the variety of housing types was reinforced in the 2004 Chapter 117 changes, through expanding the requirements for accessory apartments and requiring all municipalities with zoning to provide for “multiunit” or “multifamily dwellings” somewhere in the municipality.<sup>9</sup> Multiunit and multifamily dwellings are generally defined as owned or rented units in buildings with 3 or more units and many bylaws specify that such units be attached in one structure like an apartment building, but it is up to each municipality to decide how strictly to define these terms.

Municipalities are free to broaden the interpretation of multifamily or multiunit dwellings to include free-standing units on commonly-owned land or land under single ownership. A broad definition including freestanding, single family units could be used to permit a variety of housing projects, from the redevelopment of an underused farmstead - allowing multiple units in a renovated barn and other farm buildings, to infill development of cottage-type housing in a village, or to permit a mobile home park. Where common facilities for the housing units are needed to serve a multiunit development, such as a laundry building, administrative office or recreational facilities, these should be recognized and allowed as a part of multiunit developments over a certain size.

Standards for Review of Multiunit Housing and/or Mobile Home Parks - Whether reviewing reuse of existing buildings or construction or installation of new units, including mobile homes, the main issues of concern for the municipality are essentially the same. The community needs to know that the development will be served by adequate infrastructure, that impacts on the natural and cultural resources are addressed, and that a management structure is in place that will maintain the common facilities such as roads and landscaping. Such standards may be applied in any of development review options discussed below.

The intensity of any multifamily development should be defined according to the town’s housing needs and the land use goals of the community. Density can be defined as the number of units

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<sup>9</sup> 24 V.S.A. §4412(1)(D)



per acre in the dimensional standards of the zoning bylaw or can be addressed in a special section for multiunit/mobile home park standards that uses setbacks from units and a percentage of land set aside for open space as the mechanisms for defining density. Density bonuses can be granted through Planned Unit Development provisions for projects that offer community benefits such as perpetual affordable housing provisions or additional open space protection.

Site design standards should vary depending on the district. For instance in a village, concerns for impacts on neighboring properties and fitting in with the historic patterns of development may take precedence, while in a rural district, consideration for proper siting to protect natural resources and scenic views may be the primary concerns. In either situation, multiunit housing projects including mobile home park, if well designed, can be successfully integrated into the community.

While municipalities should be free to apply standards to any proposed development to protect community values, the standards should not be so demanding that they have the effect of excluding mobile home parks and other types of affordable housing by making development too expensive or impossible. Unreasonable standards may not be easy to spot but are sometimes found in the types of amenities required for developments (landscaping, lighting, etc.) or might include specifications for infrastructure – such as requiring road design and construction that is better suited to a high-use commuter road than for a small housing development. Including waiver provisions that would enable less expensive options to be approved under certain conditions would be one way for municipalities to maintain high standards for development that can be modified if necessary.

#### **b. Types of Development Review for New Mobile Home Parks**

A number of permitting options are available for reviewing multiunit housing development including mobile home parks. Each type of review has a different function but often the requirements overlap and standards for review of multiunit housing can be similar for all. They are enabled by statute and listed in 24 V.S.A. §4460(e), and include Conditional Use Review, Site Plan Review, Subdivision Review, Planned Unit Development (PUD) Review, and/or Design and Historic District Review. Municipalities may determine which of these should apply to the review of mobile home parks but should carefully consider whether the standards and review process would “have the effect of excluding” mobile home parks.”

<b>DEVELOPMENT REVIEW OPTIONS</b>			
<b>For New Mobile Home Parks (MHPs) and Other Types of Multiunit Housing Development</b>			
<b>Review Process</b>	<b>Considerations</b>	<b>Has the effect of Excluding MHPs?</b>	
		<b>YES</b>	<b>NO</b>
<b>Site Plan Review</b>	Apply to permitted uses – MHP or broader category such as multiunit housing. Usually a 1-step review process with simplified notice procedures. Should include review standards addressing management of common facilities.	Overly restrictive review standards or those that require excessively expensive compliance should be avoided.	Focus of review is on the design of the development and not the use. Review standards should address community concerns as expressed in the municipal plan.
<b>Conditional Use Review</b>	Most common approach to zoning MHPs. Consider designating at least one district where MHPs or multiunit housing is permitted. If Conditional Use as well as Site Plan Review or other reviews are required for any projects, combine the review process. Full notice procedures required for conditional use review.	Bias against MHPs may prevent fair review of use. Option of permitting MHPs or multiunit housing only as conditional use may be exclusionary if such uses are routinely denied or decisions made only on subjective “character of the neighborhood” standards.	If review rigorously seeks to apply the town plan goals in determining if there is an undue adverse effect on neighborhood character and standards for review are reasonable, exclusionary effect may be avoided.
<b>Subdivision Review</b>	Bylaw may require that multiunit housing be subject to subdivision review even if new lots are not created. (Mobile home park “lots” should not be considered subdivided lots.) Usually a 2 or 3-step review process with full notice. Should include review standards addressing management of common facilities.	Overly restrictive review standards or those that require excessively expensive compliance should be avoided.	Focus of review is on the design and impact of the development and not the use. Review standards should address community concerns as expressed in the municipal plan.
<b>Planned Unit Development (PUD)</b>	PUDs offer only way to permit multiple units on a lot in many bylaws so is often the only mechanism for permitting MHPs. If multiunit housing is permitted by right, PUDs can then be used to offer density bonuses, modification of dimensional requirements and other benefits in return for perpetual affordability clauses, enhanced site design and other community benefits.	Relying on PUD approval as only way to approve MHPs may be exclusionary. PUD approval is granted at the discretion of the board/commission reviewing the project, with ample opportunity for bias against MHPs to enter decision making.	Clear standards for the review and granting of zoning modifications, applied consistently, can avoid exclusionary effect. Where multiunit housing/MHPs are otherwise permitted, PUDs may be used to offer added benefits to entice developers and encourage beneficial projects.
<b>Design or Historic District Review</b>	Normally not applicable to MHPs, but towns adopting design or historic review standards should consider exclusionary effect. In general, design standards that would result in good site plans can be applied through other review processes.	Design or historic review standards that would prohibit mobile homes (such as minimum building width and roof pitch requirements) should not be applied town-wide.	Provide for locations that MHPs could reasonably be located within the town, limiting any design standards in such areas to those that regulate site design, not building design.

#### **4. “Freestanding” Mobile Home Park Ordinances**

*(This section only applies to municipalities that adopted a Selectboard Ordinance to regulate the development of mobile home parks)*

Title 24 of the Vermont Statutes contained a provision enacted in 1957 which allowed municipalities to adopt freestanding ordinances to “provide for the regulation and licensing of all parks for trailer coaches and mobile homes.” (24 V.S.A. § 2231)

Legislation enacted in 2008 (Act 120) repealed this authorizing statute as of July 1, 2008 and phased out any existing ordinances by July 1, 2010.

If towns are interested in regulating the internal land use of a mobile home park, they are no longer allowed to use this type of freestanding ordinance.

## MOBILE HOME PARK PRIMER for Municipalities

**What is a mobile home park?** – A mobile home park is any property that has more than two mobile homes or mobile home lots. (There are limited exceptions for agricultural and seasonal uses.) This can include contiguous lots owned by the same person even if each lot has only one mobile home. Whether the mobile homes or just the lots are rented and who resides in the units generally are not factors in determining if a property is a mobile home park pursuant to state law.

**What's the difference between modular and mobile homes?** – Manufactured or mobile homes are built entirely in a factory according to the federal "HUD Code" and have a label certifying them as such. A key feature of manufactured/mobile homes is the fact they are constructed on a steel frame or chassis. Modular homes are constructed in sections off-site according to local or state building codes.

### **Who regulates mobile home parks?**

- **The Department of Housing and Community Development** administers State laws, and has adopted rules concerning mobile home park leases, rent increases, sale or closure of mobile home parks, and conducts an annual survey of parks. The DHCD has also adopted rules for the warranty of habitability contained in the statute. Pursuant to Act 8 of 2015, DHCD is authorized to enforce the statute in court, impose administrative penalties of up to \$5,000, or refer violations to the Attorney General or State's Attorney.
- **The Agency of Natural Resources** and its departments handle water and wastewater issues in mobile home parks. The Agency requires permits for modification or failure of potable water and wastewater systems regardless of when the mobile home park was built. Mobile home parks that rise to the level of public community water supplies (generally 10 or more lots) are subject to State drinking water requirements contained in the Water Supply Rule. In the past, the Agency issued Mobile Home Park Permits that were concerned with roads, common areas and facilities, lot size and layout etc. but no longer issues such permits.
- **The Department of Public Safety, Fire Prevention Division** has regulatory authority over electrical problems encountered in mobile home parks, specifically the electric service from the meter to the main circuit panel in the home. The Division has jurisdiction over the interior wiring and fire code provisions for rented mobile homes, but not owner occupied units.
- **The Vermont Department of Health**, through the local health officer or board of health, investigates and has authority to prevent, remove or destroy public health hazards including those that may be encountered in a mobile home park. The local health officer can also enforce Department of Health rules including the State Rental Housing Health Code which applies to rented mobile homes and rented individual mobile home lots that are not in a mobile home park.
- **The U.S. Department of Housing and Urban Development (HUD)** is responsible for oversight of manufactured housing in the United States and enforces the "HUD Code" for new manufactured homes sold or purchased or located in Vermont. As of May 1, 2016, anyone installing a new manufactured home is required to be licensed by HUD, and have the installation inspected by a qualified inspector to ensure that the installation and foundation complies with HUD's regulations. HUD also administers a consumer complaint

program for issues related to new homes and a separate dispute resolution program for defects or issues with the retailer or installer.

- **The Vermont Human Rights Commission** enforces Vermont’s Fair Housing and Public Accommodations Act which prohibits discrimination in housing because of a person’s race, color, religious creed, national origin, sex, sexual orientation, gender identity, marital status, disability or age or because there are one or more minor children in the household, or because a person receives public assistance. The Fair Housing Law applies to mobile homes and mobile home parks and prohibits discrimination in the sale, rental, or financing of a mobile home or a lot in a mobile home park.

### **What rights to park residents have?**<sup>10</sup>

Park residents are entitled through their lease and Vermont law to premises which are safe, clean and fit for human habitation, including: adequate and reliable utility services; safe electrical service to a location on each lot from which the mobile home may be connected; potable water and sewage disposal to a location on each lot from which the mobile home may be connected; and safe and fit roads, common areas and facilities.

Residents are also entitled to have from the park owner:

- A written lease, and a copy of their current lease upon request to the park owner
- Proper notice of any rent increase, and mediation of certain increases
- Peaceful enjoyment of their home and the park
- Privacy - park owner’s compliance with Rule pertaining to access to the lot
- The right to sell or sublet their mobile home in the park
- Not to be evicted except for cause; i.e. nonpayment of rent or lease violations, and only by court order
- Notice before the park owner commences an eviction (in most cases)
- Proper notice of the owner’s intention to sell or close the mobile home park

In the event a mobile home park owner fails to comply with the obligation of habitability by making timely repairs after actual notice from a resident, a governmental entity, or a qualified independent inspector, provided the conditions are not the result of the acts or omissions of the resident beyond normal wear and tear, a resident may:

- (a) Withhold payment of lot rent for the period of noncompliance;
- (b) Seek a court order requiring compliance;
- (c) Seek a court order for damages, costs, and reasonable attorneys’ fees;
- (d) Terminate the lease with reasonable notice.

Under certain circumstances a resident may repair a minor defect and deduct the cost from their lot rent, but not more than half of one month’s rent.

In addition to any other the rights of action, any resident may file suit against the mobile home park owner, after 30 days’ written notice by certified mail to the mobile home park owner, for violation of the sections of 10 V.S.A. chapter 153 set forth in subparagraphs 14.2.1 (a) through (g) of the Housing Division Rules Part I; and for violation of 10 V.S.A. § 6242, may seek damages in the amount of \$10,000.00 or 50 percent of the gain realized by the owner from the sale, whichever is greater, as well as actual and punitive damages.

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<sup>10</sup> Persons renting a mobile home in a park from someone other than the park owner are tenants covered under the Landlord Tenant Law, 9 V.S.A. Chapter 137. In some cases both the Mobile Home Park Act and the Landlord Tenant Law may apply to a situation, in which case whichever law provides greater protection applies.

**Sample Zoning Language for  
Pre-existing Nonconforming Mobile Home Parks**  
*Developed by Northwest Regional Planning Commission*

If a mobile home park, as defined in 10 V.S.A. Chapter 153, is a nonconformity pursuant to these bylaws, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered to be a nonconformity under these bylaws, except as provided below. No pre-existing nonconforming mobile home park may be resumed if such use has been abandoned for a period of six months or more. Mobile home parks shall be considered abandoned when the whole park is vacant for a period of six months or more. An individual mobile home lot that is vacated shall not be considered abandoned. In accordance with 24 V.S.A. Sections 4412 (1)(B) & (7)(B), existing, nonconforming mobile home parks shall comply with this section.

A. Any mobile home within the nonconforming mobile home park may be altered, expanded, or replaced, providing:

1. the applicant provides proof of adequate wastewater capacity; and
2. the expansion or replacement will not:
  - i. be located less than [ten (10), five (5) (assure requirement is applicable to existing MHPs in your community)] feet from any other primary structure(s);
  - ii. obstruct or prohibit ingress or egress for any primary structure;
  - iii. obstruct or prohibit mobility or replacement of any primary structure;
  - iv. obstruct or prohibit the provision of emergency services;
  - v. obstruct existing utilities or rights of way; nor
  - vi. threaten or unduly degrade public health, safety, or welfare

B. Should these standards be found to have the effect of prohibiting the replacement of a mobile home on an existing lot, the [AMP], through [variance, conditional use, waiver \*\*see below] review and Section            herein may alter one or more of these requirements.

As referenced in (A) above, standards for pre-existing nonconforming mobile home parks should provide for a quasi-judicial review to address situations where the bylaws have the effect of prohibiting the replacement of a mobile home. In determining which review to apply, consider the following:

- Variance – All bylaws already have the required standards and review process for variances. The replacement of a mobile home on an existing lot within a pre-existing mobile home park is likely meet all five standards for granting a variance (see Section 4469) but could be easily interpreted otherwise. This may be a fact too subtle to ensure proper flexibility for this specific occasion, while not affecting the integrity of variances as a whole.
- Conditional Use – Most bylaws provide standards and a review process for conditional uses. By adding very little language specific to the replacement of mobile home in a pre-existing mobile home parks, this review type should work well to address the limited scope. Applying conditional use review, the following language could replace B above:

B. The standards in Section A above may be waived after conditional use review by the [AMP] provided the applicant demonstrates that adherence to these standards would have the effect of prohibiting the replacement of a mobile home on an existing lot. In approving this waiver, the [AMP] may impose conditions requiring design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver.

- Waiver – Statute clarified municipal authority to provide for “waivers” through zoning regulations. Waivers are a tool to allow for some limited amount of flexibility in dimensional requirements of local bylaws. Although appearing to be similar to and commonly mistaken for Variances, Waivers are very different in that:
  - Variances must meet all five criteria listed in the Act (Section 4469) and therefore typical issuance of a variance should be very rare (except in cases of the replacement of mobile homes on lots in pre-existing, nonconforming mobile home parks).
  - Waivers allow for the realistic situations where bylaws are appropriate and the development is appropriate, but the two just do not conform in this *isolated* situation.Should waivers fit the needs of your community, the following language could replace the language in B above.

B. The [AMP] may waive dimensional requirements of these regulations in cases where conditions exist which affect the subject land, and are not generally applicable to other land in the area. No waiver shall be granted which would have an undue adverse effect on adjacent property or on public health and safety.

1. A waiver shall only be granted when strict adherence to the requirements of these regulations would have the effect of prohibiting the replacement of a mobile home on an existing lot of an existing nonconforming mobile home park, in accordance with 4412(1)(B) and A., above.
2. In the issuance of waivers the [AMP]:
  - a) shall provide only the minimum waiver that will afford relief and will represent the least deviation possible from the bylaw, while ensuring public health, safety, and welfare.
  - b) may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver.
3. Waivers shall be issued by the [AMP] in accordance with Sections \_\_\_\_\_ herein [reference applicable sections or standards already in bylaws which address public notice requirements, hearing process, and decision timelines; or outline specifics here].
4. Any and all appeals of such waivers shall be pursued in accordance with Section [appeals section of bylaws] herein.