

MANUFACTURED HOME COMMUNITIES IN

# TENNESSEE

## STATE, LOCAL AND MUNICIPAL MANUFACTURED HOUSING POLICY

In Tennessee, the policy environment for developing and preserving manufactured housing communities is weak. While many of the state’s financing and energy efficiency programs do not appear to discriminate against manufactured homes, some federally funded financing programs are restricted to site-built homes. Additionally, and in contrast to most states, Tennessee provides almost no statutory protections for owners of manufactured homes sited in manufactured home communities.

## LAWS PROTECTING HOMEOWNERS IN MANUFACTURED HOME COMMUNITIES

KEY	STRONG PROTECTION	WEAK PROTECTION	NO PROTECTION
Affirmative protections for fundamental freedoms			
Protection against retaliation			
Notice before closure			
Purchase opportunity			
Protection against arbitrary eviction			
Right to sell home in place			
Relocation expenses			
Administrative complain procedure			
Requirement of lease of at least one year			
Requirement that community owner maintain the community			
Resident ability to enforce the laws			



This policy snapshot reviews state and local policies that affect homeowners, home buyers, nonprofit dealers, developers and others with a stake in manufactured housing as a source of affordable housing. These policies include:

- Laws protecting homeowners living in manufactured home communities
- The right to treat manufactured homes as real property
- State programs and policies
- Local and municipal policy environment

**Affirmative protections for fundamental freedoms.** Tennessee does not provide any protections for residents of manufactured housing communities, including the fundamental rights of free movement, speech, assembly and association.

**Protection against retaliation.** Even states that do not provide affirmative protections for residents’ fundamental freedoms often prohibit community owners from retaliating against residents for exercising their legal rights. Tennessee does not protect manufactured housing residents from retaliation by community owners for asserting rights or engaging in activities protected by law, being a member of a homeowners’ association or reporting violations of the law to the appropriate governmental authorities.

**Notice before community closure.** About half of states require a substantial notice period before a manufactured home community closes. Tennessee does not provide any notice period to community residents.

**Purchase opportunity.** Homeowners in manufactured home communities are vulnerable because they do not own the land under their homes. Tennessee does not have any policies or laws on the books that either require or encourage community owners to provide residents the opportunity to purchase the land on which their homes sit.

**Protection against arbitrary eviction.** Some states protect homeowners in manufactured home communities from eviction or nonrenewal of their leases unless they have done something wrong, such as failing to pay lot rent or violating a rule. Tennessee does not provide this critical protection.

**Note:** The content in this Policy Snapshot was collected by the National Consumer Law Center, with input from Tennessee Housing Development Agency.

**Right to sell home in place.** Community owners can effectively prevent homeowners from selling their homes by reserving the right to reject any potential buyer as a resident. Tennessee does not limit the community owner's ability to arbitrarily reject a buyer's application for residency.

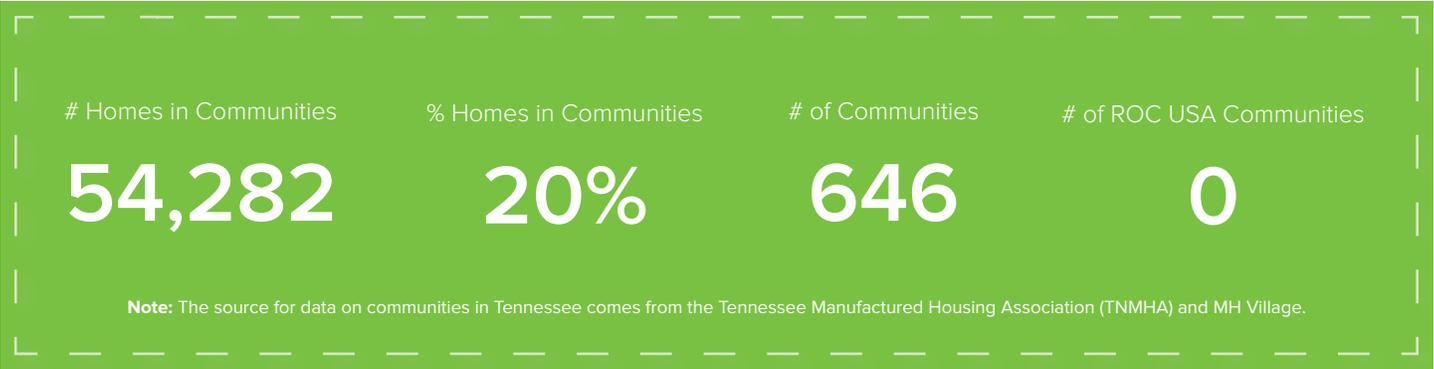
**Relocation expenses.** Approximately 15 states have programs—usually funded at least in part by community owners—to pay the costs of moving homes if a manufactured home community closes. Tennessee does not have programs to cover the costs of moving the homes in a manufactured home community when the community closes.

**Administrative complaint procedure.** Some states offer a simple administrative procedure for resolving residents' complaints about their manufactured home community. Tennessee does not offer this service.

**Requirement of lease of at least one year.** About 20 states—but not Tennessee—require the owner of a manufactured home community to offer homeowners leases of at least a year. This requirement provides a modicum of security of tenure.

**Requirement that community owner maintain their communities.** Many states—but not Tennessee—specifically require manufactured home community owners to maintain common areas, utilities and other services so that they are clean, safe and in good working order.

**Resident ability to enforce the laws.** A right without a remedy is unlikely to be effective. However, since Tennessee provides almost no statutory protections for manufactured home community residents, there is little that residents can enforce.



## TITLING | RIGHT TO TREAT HOME AS REAL PROPERTY



The way in which a state governs the titling of manufactured homes, especially when homes may be converted from personal property to real property, has major implications for owners and purchasers. Although a modern manufactured home may be indistinguishable from a site-built home to many observers, it is typically considered personal property—like a car or a television set—rather than real property, absent some sort of conversion to real property. Classification of a home as personal property, along with other issues common to manufactured housing, often keeps homeowners from enjoying the same security and potential for wealth creation enjoyed by owners of site-built homes.

In Tennessee, as in most states, homeownership of personal property is evidenced by a certificate of title. Tennessee does offer a procedure for converting manufactured homes from personal to real property, but it does not extend this option to homes on leased land. If a manufactured home is affixed to real property, and the ownership of the home is identical to the ownership of the land, the owner may surrender the title to the state department of safety. The owner must submit an affidavit of affixation that certifies that all permits required by applicable governmental authorities have been obtained, the foundation system complies with the law and with the manufacturer's specifications, the wheels and axles have been removed and the home is permanently connected to a septic or sewer system and other utilities. All lienholders must have released their liens on the home. If the affidavit complies with all the statutory requirements, the county register of deeds is to record it. The home is then subject to taxation as an improvement to the land, but the statute does not specify the effect on other matters such as inheritance or foreclosure. Tenn. Code Ann. §55-3-128.

## STATE POLICIES AND PROGRAMS THAT AFFECT **NONPROFIT MANUFACTURED HOUSING** DEVELOPMENT AND PRESERVATION

### **LICENSING ISSUES FOR NONPROFIT MANUFACTURED HOUSING DEVELOPERS**

Tennessee does not impose unusually onerous licensure requirements for nonprofit manufactured housing developers. Manufactured home retailers must be licensed by the commissioner of commerce and insurance (Tenn. Code Ann. § 68-126-206). They must pay a \$40 fee and post a \$25,000 surety bond and the retailer must take a 15-hour course and pass an examination on installation (Id.; Tenn. Comp. R. & Regs. § 0780-02-04-.03). Licenses must be renewed every year, and there is a five-hour annual continuing education requirement (Tenn. Code Ann. § 68-126-206; Tenn. Comp. R. & Regs. § 0780-02-04-.13). Individual employees of the retailer (other than installers) need not be licensed (Tenn. Code Ann. § 68-126-206).

Retailers must abide by rules issued by the commissioner to afford reasonable protection to persons and property with respect to the construction, assembly, and sale or lease of manufactured homes (Tenn. Code Ann. § 68-126-205). They must either provide set-up of the home or arrange for set-up by a licensed manufactured home installer. *Id.*

### **STATE WEATHERIZATION PROGRAMS & OTHER MANUFACTURED HOUSING REPAIR OR REPLACEMENT PROGRAMS**

Weatherization and utility programs in Tennessee treat manufactured homes similarly to site-built homes. The state's weatherization assistance program (WAP), administered through the Tennessee Housing Development Agency (THDA), serves families living in manufactured homes under the same processes and rules as any other household. However, given the physical structure of manufactured housing, there might be technical differences in the types of weatherization provided. For instance, "belly" insulation might be installed in manufactured homes, while this would not be done in more traditional site-built housing. There are no programs targeted specifically to manufactured housing.

THDA's Low-Income Home Energy Assistance Program (LIHEAP), a federally funded grant program to assist low-income households that pay a high proportion of income on energy, does not differentiate between site-built and manufactured homes. The agency's Rebuild and Recover Disaster Program also doesn't appear to restrict grant usage for manufactured housing.

### **PUBLIC FINANCING**

Consumers and nonprofit housing developers in Tennessee have access to a number of publicly-financed programs for the purchase or rehabilitation of affordable housing. The Great Choice Home Loan—a 30-year, fixed-rate mortgage financing option available to low- and moderate-income homebuyers through THDA—does not appear to exclude manufactured homes, nor do the Great Choice Plus or HHF-DPA down payment assistance programs.

Similarly, for renovations and repairs, the Tennessee Renovation Loan Program, Tennessee Housing Trust Fund programs and Appalachian Renovation Loan Program do not appear to differentiate between manufactured homes and site-built homes. THDA's New Start Loan Program, which funds the purchase of new homes for low- and moderate-income buyers through nonprofit partners, specifically cites the eligibility of manufactured homes.

However, the HOME program, funded by HUD, explicitly restricts the use of grant funds for rehabilitation and replacement of existing manufactured homes.

## LOCAL AND MUNICIPAL **MANUFACTURED HOUSING** POLICY

### **LOCAL ZONING AND FEE SIMPLE MANUFACTURED HOMES**

Tennessee prohibits localities from excluding manufactured homes from residential districts if they have the same general appearance as site-built homes (Tenn. Code Ann. §§ 13-24-201, 13-24-202).

### **LOCAL ZONING AND PRESERVING MANUFACTURED HOUSING COMMUNITIES**

State law does not specifically regulate the location of manufactured home communities. Tennessee law does not require residents to be notified of a zoning change affecting their manufactured home community.

### **MORATORIUMS ON CLOSURE OR REDEVELOPMENT OF MANUFACTURED HOUSING COMMUNITIES**

Giving municipalities the ability to put a temporary freeze on redevelopment can sometimes help them prevent the closure of manufactured housing communities. Tennessee does not have a statute giving municipalities the specific authority to impose a moratorium on redevelopment. However, the state Supreme Court has held that the general powers granted to municipalities are sufficient to allow a moratorium to preserve the status quo when a new zoning ordinance is pending. (*Harding Academy v. Metropolitan Government of Nashville and Davidson County*, 222 S.W.3d 359 (Tenn. 2007); *State ex rel. SCA Chemical Waste Servs., Inc. v. Konigsberg*, 636 S.W.2d 430 (Tenn. 1982)).

## LOCAL TAX AND OTHER FINANCIAL INCENTIVES

There are no known tax or other financial incentives that would encourage landowners to sell or transfer the community to residents.

## LOCAL RENT CONTROL

There is no known local rent control in Tennessee for manufactured home communities.

## MANUFACTURED HOUSING INCLUSION IN CONSOLIDATED PLANNING, MUNICIPAL PLANNING AND COMPREHENSIVE PLANNING

State law does not require manufactured homes to be included in comprehensive plans for land use.

# SURVEY OF POLICIES IN **NASHVILLE AND DAVIDSON COUNTY AREAS**

## LOCAL PLANNING

Metro Nashville/Davidson County is divided into 14 planning districts, or “communities,” each with its own Community Plan. None of the 14 community plans mentions mobile or manufactured homes.

The NashvilleNext General Plan is an extensive document, providing a community vision, goals, policies and actions. It also brings together and updates the 14 Community Plans, the Community Character Manual and a transportation plan. An analysis of housing type preferences in the Trends and Issues section states that the fastest growing household types over the next 25 years are small-lot single family and attached homes, but it does not mention manufactured homes as a possible way to meet this need. That section also notes that affordability is a rising concern in the Nashville area. The housing element of the plan does not mention mobile or manufactured homes, nor does the action plan .

These documents can be found at <https://www.nashville.gov/Government/NashvilleNext/Community-Plans.aspx>.

## LOCAL ZONING

The Code of Ordinances of the Metro Government of Nashville and Davidson County allows mobile homes in only two agricultural districts and in Mobile Home Park districts (see the Land Use Table at [https://www.nashville.gov/Portals/0/SiteContent/Codes/docs/public\\_docs/LandUseTable.pdf](https://www.nashville.gov/Portals/0/SiteContent/Codes/docs/public_docs/LandUseTable.pdf)). In Mobile Home Park districts, they are allowed if the park is approved by the metropolitan board of health and meets various conditions, including minimum park size, minimum lot size, density, setbacks, a requirement of a paved driveway that is permanently maintained by the landowner, sidewalks, open space, landscape buffer yards, storage space and skirting (Code of Ordinances § 17.16.030). “Mobile home” is defined in this ordinance broadly enough to include manufactured homes built to the HUD code and those built earlier, but it is limited to single-wide homes (Code of Ordinances § 17.04.060). It is possible that the ordinances could be interpreted to allow double-wide homes wherever single-family homes are allowed, but this is not made explicit in the ordinances.

The zoning ordinances are available at: [https://library.municode.com/tn/metro\\_government\\_of\\_nashville\\_and\\_davidson\\_county/codes/code\\_of\\_ordinances?nodetid=14214](https://library.municode.com/tn/metro_government_of_nashville_and_davidson_county/codes/code_of_ordinances?nodetid=14214).

## LOCAL TAXATION

According to the website of the Property Assessor’s Office of Nashville & Davidson County (<http://www.padctn.org/real-property/mobile-homes/>) mobile homes are assessed as real property, and are considered “as an improvement to the land where that mobile home is located, whether property owned or leased by the mobile home owner or on a lot or pad in a mobile home park where the owner is renting or leasing space.” The website states that mobile home park owners will receive a tax bill that includes taxes for all mobile homes in their park, but the homeowners are responsible for paying the taxes on their homes. Park owners can collect taxes from the homeowners in a lump sum, or can include it in the monthly rent bill.



Innovations in Manufactured Homes (I'M HOME) is a national initiative managed by Prosperity Now which seeks to ensure that owners of manufactured homes have the opportunity to build wealth through homeownership by improving the quality of new and replacement development, enhancing homeowners’ ability to enjoy long-term land security, expanding access to safe home financing and encouraging a supportive policy environment.