MANUFACTURED HOME COMMUNITIES IN MASSACHUSETTS

STATE, LOCAL AND MUNICIPAL MANUFACTURED HOUSING POLICY

Overall, the state and local policy environments in Massachusetts are generally favorable for the development and preservation of manufactured housing communities. The state has strong consumer protection and anti-harassment laws, and residents of manufactured housing communities are provided with a right of refusal to purchase or lease the community from the owner.

However, there is room for improvement on other policies—particularly those that provide funding streams for homeowners through state programs. For instance, the state housing finance agency does not allow its products to be used to finance the purchase of manufactured homes. State affordable housing programs also restrict or prohibit the use of program funds for manufactured housing, and the state law governing affordable housing production does not consider manufactured homes in its count of affordable housing. Moreover, residents who wish to purchase or upgrade their communities have no readily available source of state subsidized funding. Local zoning often restricts or prohibits manufactured homes and manufactured home communities.1

LAWS PROTECTING HOMEOWNERS IN MANUFACTURED HOME COMMUNITIES

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**Affirmative protections for fundamental freedoms.** Massachusetts provides strong protections for residents of manufactured housing communities, including the fundamental rights of free movement, speech, assembly and association. It protects the right to meet peacefully, to use common areas for meetings and to distribute notices of meetings, as well as the right of public officials or representatives of resident associations to be present. Residents have freedom from interference by community owners or operators when they solicit membership or dues for a resident association.2

**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. Massachusetts statutes and regulations broadly prohibit retaliation against community residents for asserting any right or engaging in any activity protected by law, being a member of a homeowners’ association or reporting violations of the law to the appropriate governmental authorities. Massachusetts regulations also require community rules to be enforced in a non-selective, non-discriminatory manner.3

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1 The Massachusetts Attorney General makes a detailed guide to manufactured home community law available on its website: www.mass.gov/ago/docs/consumer/mhg.pdf
2 940 Code Mass. Regs. § 10.04(9)(a), (c)
Notice before community closure. About half the states require a substantial notice period before a manufactured home community closes. Massachusetts provides one of the longest notice periods; each resident is entitled to a minimum two-year notice if the owner decides to discontinue the community or use the property for some other purpose. There is also a local permitting process in some communities.4

Purchase opportunity. Homeowners in manufactured home communities are vulnerable because they do not own the land under their homes. Massachusetts is one of 19 states with a policy on the books to require or encourage community owners to give residents the opportunity to purchase the land on which their home sits. If the community owner decides to sell or lease the community, residents or their homeowners’ association have a right of first refusal to purchase or lease the community from the owner. The policy is one of the strongest nationwide and requires notice of the community owner’s mere intent to sell the community.5

Protection against arbitrary eviction. Homeowners in manufactured home communities are protected from arbitrary eviction or nonrenewal of their lease. Residents cannot be evicted unless they failed to pay the lot rent, violated a rule or a law, or the community is discontinued.6

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. Massachusetts limits the community owner’s ability to reject an application for residency so long as the applicant meets the rules of the community and provides evidence of the ability to pay the lot rent.7

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. Massachusetts requires a community owner that is closing a community to pay each resident either the actual costs of moving the home or the appraised value of the home.8

Administrative complaint procedure. Some states offer a simple administrative procedure for resolving residents’ complaints about their manufactured home community. Massachusetts offers several options for resolving residents’ complaints, including a Manufactured Housing Commission set up for this purpose.9

Requirement of lease of at least one year. About 20 states—including Massachusetts—require the owner of a manufactured home community to offer homeowners leases of at least a year. Massachusetts requires owners to offer a five-year written lease. This requirement provides a modicum of security of tenure.10

Requirement that community owner maintain the community. Massachusetts regulations specifically require manufactured home community owners to maintain common areas, utility service and other services so that they are clean, safe and in good working order.11

Resident ability to enforce the laws. In Massachusetts, residents have the right to enforce the manufactured home community protections through the state’s strong consumer protection and tenant protection laws. The state’s consumer protection law, for example, provides for triple monetary damages.12

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4 140 Mass. Gen. Laws § 32L(8)
5 Mass. Gen. Laws Ch. 140, § 32R
7 940 Code Mass. Regs. § 10.07(2)
9 Mass. Gen. Laws Ch. 6, § 108
10 940 Code Mass. Regs. § 10.03(5)
11 940 Code Mass. Regs. § 10.05
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.

Massachusetts is one of a minority of states that does not use a certificate to title manufactured homes that are personal property. Rather than a certificate of title, ownership is proven and liens recorded pursuant to the Uniform Commercial Code.

Homes on owned land may become a part of the real property when they have been affixed and attached to the land and may be financed along with the land through the use of fixture filings. There is no statutory conversion process that clearly defines when a home is personal property and when it is real property. This common law approach to conversion and the lack of a statutory conversion process leaves homeowners in land-lease communities without any effective way of classifying their home as real property. As a result, these homeowners are limited to high-cost chattel financing.

Licensure and regulation of manufactured home dealers is almost exclusively a state function. However, in Massachusetts, no special license is required to sell or deal in manufactured homes.

The Massachusetts weatherization assistance program (WAP) serves families living in manufactured homes under the same processes and rules as any other household. There are no programs targeted specifically to manufactured housing.

The major utilities serving Massachusetts are Eversource, National Grid and Unitil. All provide electric and natural gas service. In their low-income energy efficiency programs, those living in manufactured homes would be eligible on exactly the same terms as those living in more traditional homes since the utility funding generally “piggy-backs” on WAP (adding more funding to the available WAP funding), allowing WAP to serve more homes. In the regular (non-low-income) residential programs, those living in manufactured homes would also, in general, be treated the same as those living in more traditional housing. 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, where this would not be done in more traditional site-built housing.

Consumers and nonprofit housing developers in Massachusetts have access to a number of publicly financed programs for the purchase or rehabilitation of affordable housing. However, some of these programs limit the use of funds for manufactured housing. MassHousing, the state’s housing finance agency that provides funding for consumers and developers of affordable housing, does not allow the MassHousing Mortgage product to be used with manufactured homes, although a state revolving loan fund may be available for upgrades to water and sewer infrastructure. Other affordable housing programs offered by the state do use federal HOME funding, and state policies regarding the manufactured housing must abide by federal regulations that govern the use of those program funds. In addition, nonprofits can leverage the financial innovations and expertise of neighboring New Hampshire, the nation’s leader in successful conversions to limited-equity resident-owned communities.
LAWS ENCOURAGING AFFORDABLE HOUSING PRODUCTION

Massachusetts Comprehensive Permit Act, commonly referred to as “40B” because of its designation in the Massachusetts General Laws, encourages the production of affordable homes by allowing developers to bypass certain municipal zoning bylaws and other requirements in exchange for a promise to set aside at least 25% of the proposed new development as affordable in the long term. The law allows the state to overturn a local zoning board’s denial of a qualified proposal. However, if a town can demonstrate that 10% of its existing homes qualify as affordable, then its zoning board is permitted to deny 40B-related permit requests. Over the years a number of towns have petitioned the state government to have 40B regulations modified to allow manufactured homes that have been in use for over 20 years to count towards the 10% affordable home stock requirement. To date, all of these petitions have failed. The definition of what constitutes affordable housing for the purposes of the 40B count has some nuanced implications in different fields within the area. Though towns and municipalities that have to adhere to 40B and manufactured housing advocates striving to encourage acceptance of manufactured housing as an important component of the affordable housing stock may embrace the inclusion of manufactured housing in the affordable housing count, affordable housing advocates and developers might, instead, express concern. These stakeholders might worry that opponents would use a higher count—inflated by the inclusion of manufactured housing—to make an argument that more affordable housing development is not needed. In 2016, the state legislature directed the state department of revenue to conduct a study evaluating the manufactured housing communities in the state to determine what percentage of resident households would qualify for low- or moderate-income housing under 40B, and to submit a report to the legislature.¹³

LOCAL AND MUNICIPAL MANUFACTURED HOUSING POLICY

LOCAL ZONING AND FEE SIMPLE MANUFACTURED HOMES

There is no state law that specifically prohibits localities from restricting the placement of manufactured homes in areas designated for residential housing. A decades-old decision by the state’s highest court has given localities such leeway,¹⁴ and some of the towns and cities examined in this survey exclude manufactured homes.

LOCAL ZONING AND PRESERVING MANUFACTURED HOUSING COMMUNITIES

State law does not specifically regulate the location of manufactured home communities, except to designate any tract of land with three or more homes as a community.¹⁵ Through the permitting process or local zoning by-laws, a number of municipalities have sought to restrict the placement of manufactured housing communities, and local restrictions imposed by zoning by-laws have been upheld by a number of judicial decisions.¹⁶ The state has created a Manufactured Housing Commission to, among other things, develop proposals for zoning for manufactured home communities. The zoning rules of the municipalities in Plymouth, Bristol and Worcester that have the greatest concentrations of manufactured homes are summarized in the county surveys below.

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. In Massachusetts, a court decision allows local municipalities to exercise the authority to impose a moratorium on redevelopment.¹⁷

LOCAL TAX & OTHER FINANCIAL INCENTIVES

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

LOCAL RENT CONTROL

Although most rent control was abolished in 1995, manufacturing housing communities were specifically exempted from that law.¹⁸ Under

¹³ Acts 2016, Ch. 218, § 245.
¹⁵ Mass. Gen. Laws Ch. 140, § 32F.
most local rent control schemes, residents who rent a lot in a manufactured home community have the right to object to a proposed rent
increase and apply for rent decreases. A certificate of eviction is required by most local rent control boards before a resident is evicted
from the community. A number of municipalities statewide have established rent control for manufactured home communities.

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

The policies that guide the development and preservation of affordable housing—including manufactured housing—are developed
primarily on the state and local levels in Massachusetts. These policies and goals are articulated in planning documents, which outline use
of the land and funding resources. State law does not require manufactured homes to be included in comprehensive plans for land use. At
the state level, the draft 2015-2019 Consolidated Plan and the draft 2016 Action Plan do not highlight the role of manufactured housing
in the state’s affordable housing initiatives.

There are 13 regional planning agencies (RPAs) that help towns and cities address issues, provide recommendations and develop their
comprehensive plans. The RPAs mostly provide links to the plans for towns and cities and do not appear to have any regional comprehensive
plans. The county surveys below summarize the treatment of manufactured housing in the plans of the towns and cities in Plymouth, Bristol
and Worcester Counties that have a high number of manufactured homes.

LOCAL STAKEHOLDERS

The state and local policy environment in Massachusetts is generally favorable for the development and preservation of manufactured housing
communities. The state has strong consumer protection and anti-harassment laws and residents of manufactured housing communities are
provided with a right of refusal to purchase or lease the community from the owner. However, financing the purchase or rehabilitation of
manufactured homes is more challenging. State affordable housing programs restrict or prohibit the use of program funds for manufactured
housing. Moreover, residents who wish to purchase or upgrade their community have no ready source of state-subsidized funding.

Planning and zoning are conducted primarily at the municipal level in Massachusetts. We did not find any planning or zoning policies relevant
to manufactured homes at the county level in Plymouth, Bristol or Worcester Counties. Therefore, this section focuses on the towns and
cities in those counties that have a high number of manufactured homes. It surveys how those municipalities treat manufactured housing
for purposes of planning and zoning.

PLYMOUTH COUNTY

TOWN OF CARVER

The Town of Carver’s Housing Production Plan outlines the community’s strategy for implementing and developing affordable housing. The
document notes that a significant percentage of the town’s housing stock consists of mobile homes (26.9% of total housing stock in 2000,
compared to 2.7% for the county). This type of housing tends to be more affordable, averaging around $100,000. However, “they cannot
be counted as part of the Subsidized Housing Inventory because they are not considered permanent housing.” The plan also notes that
“mobile homes are considered as personal property and are not financed as other types of housing.”

The town’s 2017 Master Plan update notes that manufactured housing comprises over 25.5% of the town’s housing units and that they
are mostly age-restricted (55 and older). It also states, “while these communities are important to the housing stock in Carver, they are
located outside of ‘walkable’ village areas and do not help Carver meet its 10% goal for the state subsidized housing inventory (SHI).”

plan lists achieving SHI eligibility for manufactured homes as one of its housing goals. The town plans to “investigate case studies from other municipalities who are trying to navigate this same issue.” It also notes that a representative from the town presented House Bill H.1103, “which seeks to include manufactured homes in the definition of low- and moderate-income housing.”

The town’s zoning bylaws, last amended in 2015, exclude mobile homes (defined broadly to include both homes built to the HUD Code and homes built prior to that code) except in mobile home parks. Mobile home parks are allowed in the Residential-Agricultural (RA) district, which appears to be the town’s primary residential district, and in the Industrial “A” (IA), Industrial “B” (IB), and Airport (AP) districts, but in all of these districts a special permit from the Board of Appeals is required. The ordinances also specify various requirements for approval of mobile home parks, including overall area, parking, recreational facilities, open space, setbacks and side yards, roadways, frontage, and water and sewer connections.

**BRISTOL COUNTY**

**CITY OF ATTLEBORO**

The Comprehensive Plan of the City of Attleboro, adopted in June 2012, notes that between 1990 and 2007, the number of mobile homes increased by almost 20%. According to the document, the city has 806 units, which are primarily occupied by seniors over 55. Of the 800+ units, 468 are located in four parks in South Attleboro near the city’s southern border with Rhode Island. The document states that “nearly all of the city’s mobile homes are owner-occupied, with renters occupying only 28 units (4.1%).” The city’s 2014-2018 Consolidated Plan mentions mobile homes only in passing, noting that 5% (886 units) of the city’s residential properties consist of “mobile homes, boat, RV, van, etc.”

The city’s zoning ordinances, last amended through April 2017, provide that mobile home parks are permitted only in the General Residence (GR) district and require a special permit from the Planning Board. While one-family, two-family and multifamily dwellings are allowed in a wide variety of residential districts without any special permit, those terms are defined to exclude mobile homes. The zoning ordinances also exclude mobile homes, other than pre-existing ones, from the floodplain district. The ordinances specify various requirements for approval of mobile home parks, including overall size, density, central facilities for recreation and services such as laundry, parking, setbacks and side yards, roadways, frontage, water and sewer connections, and buffer zones.

**WORCESTER COUNTY**

**TOWN OF AUBURN**

The Master Plan of the town of Auburn notes that 5.5% (361 units) of the town’s total housing stock consists of mobile homes. It states that most parks are located in the Highway Business district. The plan also states that “mobile home parks are no longer an allowed use in Auburn.” The Housing chapter of the plan identifies mobile homes as “a truly affordable housing option for lower income families,” and

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22 Id., Housing Goal 5-3-4.
23 Town of Carver, “Zoning Bylaw,” amended April 2015, http://www.carverma.gov/sites/carverma/files/uploads/zoning_bylaws_2015_2.pdf, § 4100 (“No mobile home shall be erected, established or located on a site for living purposes, except in an approved mobile home park. No mobile home park or trailer park shall be established or operated within the town unless a special permit has been issued by the Board of Appeals as special permit granting authority.”) See also Art. VI (defining “dwelling” to exclude mobile homes, so that it does not qualify as a “detached single-family dwelling, which would be allowed in the RA zone without a special permit).
24 The 2017 Master Plan states that 85% of Carver’s land is zoned Residential Agricultural.
26 Id. § 4160.
30 City of Attleboro, Massachusetts, “Zoning Ordinance,” amended April 2017, http://www.cityofattleboro.us/DocumentCenter/HomeView/379, 17-10.3 (“no mobile home, trailer, or like structure shall be used for living quarters anywhere in the City except within mobile home parks, except that in a case of an emergency or disaster.”)
32 Id. § 17-12.10.
33 Id. § 17-10.3.
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.

TOWN OF BROOKFIELD

The Master Plan of the Town of Brookfield, adopted in May 2011, notes that mobile homes make up 20.9% of its housing stock and that compared to surrounding communities, it has the highest number and percentage of mobile homes. There are three mobile home parks located within the town (Wagon Wheel, Brookfield Meadows and Nanatomqua), but the plan states that “additional mobile homes have been prohibited in the Brookfield Zoning Bylaws since at least 1998.” The plan notes that 85 units within the Nanatomqua Mobile Home Park are reserved for residents 55 and older, but mentions that there is still need to provide additional housing opportunities for the elderly.

The plan also discusses how mobile homes do not meet the State’s affordable housing definition/requirements under Chapter 40B. The plan states, “there have been legislative bills filed every year for the last decade to try and change the State’s affordable housing regulations to allow mobile homes (also referred to as manufactured homes) to be considered eligible under Chapter 40B, but none have succeeded.”

The town’s zoning ordinances, last amended in June 2014, provide that mobile homes (single lots or in mobile home parks) “are expressly prohibited in all zoning districts,” except as temporary emergency dwellings for up to 60 days.

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38 Id. p. 18.
42 Id. § 5(8)(5).