MANUFACTURED HOME COMMUNITIES IN OREGON

LAWS PROTECTING HOMEOWNERS IN MANUFACTURED HOME COMMUNITIES

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AFFIRMATIVE PROTECTIONS FOR FUNDAMENTAL FREEDOMS
Almost half the states, including Oregon, affirmatively guarantee fundamental freedoms for residents of manufactured home communities, such as the right to canvas their neighbors, hold meetings, distribute flyers and invite public officials and candidates to speak to community residents.1

PROTECTION AGAINST RETALIATION
Most states, even if they do not provide affirmative protections for fundamental freedoms, at least prohibit community owners from retaliating against residents for exercising these rights. Oregon prohibits eviction of a resident from a manufactured home community in retaliation for exercising legal rights. Oregon also prohibits eviction because a tenant has organized or joined a resident organization. This retaliation protection also covers other retaliatory acts, such as rent increases or decreases in services.2

NOTICE BEFORE COMMUNITY CLOSURE
About half the states require a substantial notice period before a manufactured home community closes. Oregon requires notice one year in advance of closure.3

PURCHASE OPPORTUNITY
One of the primary reasons that homeowners in manufactured home communities are so vulnerable is that they do not own the land under their homes. Nineteen states have a policy that requires or encourages community owners to give residents the opportunity to purchase the land on which their homes sit. Oregon had a weak, ineffective purchase opportunity law for many years, but this law was strengthened in 2014 and is now producing purchase opportunities. The state also provides a capital gains tax exclusion for community owners who sell their parks to the residents, a nonprofit or a housing authority.4 In addition, to encourage low-cost loans, Oregon offers a tax credit (called the Oregon Affordable Housing Tax Credit) equal to the value of a four percentage-point reduction in the loan interest rate for lenders who finance a purchase by a resident group, a nonprofit organization or a housing authority.5

PROTECTION AGAINST ARBITRARY EVICTION
Oregon protects homeowners in manufactured home communities from eviction or nonrenewal of their leases unless, for example, they fail to pay the lot rent or violate a community rule.6
RIGHT TO SELL HOME IN PLACE
Owners of manufactured home communities can effectively prevent homeowners from selling their homes by reserving the right to reject any potential buyer as a resident. Oregon prohibits arbitrary rejection of a buyer’s application for residency. Or. Rev. Stat. § 90.680.

RELOCATION EXPENSES
About a third of the states, including Oregon, have programs that provide relocation assistance if a manufactured home community closes. Oregon’s program, like many others, is partially funded by community owners. The community owner must pay $5,000/$7,000/$9,000 for a single-/double-/ triple-wide, respectively. HB 2008 (2017), effective as of June 6, 2017, increases these amounts to $6,000/$8,000/$10,000, with annual indexing going forward, and the state provides a cash tax credit of $5,000. These payments are exempt from taxation as income.

REQUIREMENT OF LEASE OF AT LEAST ONE YEAR
About twenty states require the owner of a manufactured home community to offer homeowners leases of at least one year. This requirement provides a modicum of security of tenure. In Oregon, a lease must be either a month-to-month lease or have a fixed term of at least two years, but in either case it may be terminated by the community owner only for cause. If a fixed-term tenancy, the community owner must offer to renew it.

REQUIREMENT THAT COMMUNITY OWNER MAINTAINS THE COMMUNITY
Oregon specifically requires manufactured home community owners to maintain common areas, utility service and other services so that they are clean, safe and in good working order.

ADMINISTRATIVE COMPLAINT PROCEDURE
Some states offer a simple administrative procedure for resolving residents’ complaints about their manufactured home community. Oregon requires community owners and residents to establish informal dispute resolution procedures concerning the lease and has a state agency—the Manufactured Communities Resource Center (MCRC)—which facilitates mediation and provides education. However, the state does not have a program for administrative resolution of problems that cannot be resolved through mediation. The MCRC is funded by an annual tax imposed on manufactured home residents who rent a space in a park.

RESIDENT ABILITY TO ENFORCE LAWS
A right without a remedy is unlikely to be effective. Recognizing this, many states specifically provide that residents have the right to enforce the manufactured home community protections. Oregon’s statute explicitly provides this right for specified provisions of its manufactured home community laws. More generally, Oregon allows either party to enforce its landlord-tenant laws, including those applicable to manufactured home communities.

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. A modern manufactured home may be indistinguishable from a site-built home. However, manufactured homes are typically considered personal property, like a car or a television set, rather than real property, absent some sort of conversion to real property. This classification 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 Oregon, owners of manufactured homes can only convert a home to real property if the owner: (1) owns the land where the structure is located, (2) holds a recorded lease of 20 years or more that specifically permits the owner to record the structure, or (3) is a member of a manufactured home cooperative that owns the land where the structure is located. Allowing homes in cooperatives to be treated as real estate is an improvement over the laws in many states. However, because of the 20-year lease requirement, homes in other manufactured home communities cannot be treated as real property. As a result, those homeowners are relegated to high-cost chattel financing rather than regular mortgage loans.
STATE AND LOCAL HOUSING FINANCE PROGRAMS

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

Licensing Issues for Nonprofit Housing Developers
A license is required to sell manufactured homes in Oregon. A licensee must pay an application fee of $542 and post a $40,000 surety bond or letter of credit. There are no non-financial requirements for licensure that would be difficult for a nonprofit manufactured housing developer to meet.

State Weatherization Programs and Other Manufactured Housing Programs
The Oregon Weatherization Assistance Program (WAP) serves families living in manufactured housing under the same processes and rules as families living in site-built homes. Manufactured homes require different types of weatherization procedures than site-built homes and WAP program providers are trained in how to properly weatherize manufactured homes.

The Energy Trust of Oregon offers free energy usage reduction measures to owners of existing manufactured homes who heat their homes with electricity or natural gas supplied by Portland General Electric, Pacific Power, Cascade Natural Gas or NW Natural. Utility districts, municipal utilities and electric cooperatives also service cities throughout Oregon.

A number of cities and counties in Oregon provide weatherization assistance for which manufactured homes are eligible. For example, Washington County’s Community Action Energy Conservation program provides no-cost weatherization assistance to income-qualified residents of Washington County. Both homeowners and tenants are eligible, and mobile and manufactured homes are included.

Note that several utilities are meeting with manufactured housing advocates to explore ways to rehabilitate or replace older manufactured homes, which are viewed as energy sieves.

USDA Pilot Program
The U.S. Department of Agriculture (USDA) Rural Development (RD) recently expanded its pilot program, which permits the 502 Direct and 502 Guaranteed loan programs to finance the purchase of energy efficient manufactured homes, to Oregon. USDA launched the pilot in August 2015 in Vermont and New Hampshire.

State and Local Housing Finance Programs
The Oregon Housing and Community Services Department makes its single-family financing programs equally available for site-built homes and manufactured homes which are permanently affixed to “acceptable foundations.” Manufactured homes must also meet mortgage insurers’ requirements, including a manufacture date after June 14, 1976, and have a living area of at least 400 square feet. Homes on land owned by the homeowner may meet the foundation requirement, but most homes in investor-owned and resident-owned manufactured home communities do not. The agency also makes grants and Oregon Affordable Housing Tax credits available for nonprofit or resident cooperative purchases of manufactured home communities. In late 2016, the Department solicited applications for $5 million in grants to assist resident-owned manufactured home communities, nonprofit organizations, resident groups, housing authorities and local governments in purchasing manufactured home communities.

The statewide residents’ organization, Manufactured Housing/Oregon State Tenants’ Association (MH/OSTA), has a Helping Hands Program that grants up to $750 for a repair or improvement to a manufactured home of one of its members. The program is funded by members’ dues and will pay up to three-quarters of the cost of the repairs.

Clackamas County offers an Owner Occupied Housing Rehabilitation Loan Program for the North Clackamas Revitalization Area. Eligible dwellings for rehabilitation loans include a “manufactured dwelling unit if the owner-occupant owns both the unit and the real property on which the unit is located. Manufactured dwelling units in parks or on rented land are not eligible because the loan cannot be secured with a lien on the real property.” Clackamas County also offers a Critical Repair Grant for manufactured homes in parks and mobile homes: “The grant may be available to repair critical safety or access deficiencies of an owner-occupied manufactured home in a manufactured home park and manufactured homes or mobile homes where the homeowner does not have title to the lot where the home is located.”

The Washington County Office of Community Development offers low-interest housing rehabilitation loans and grants to benefit low- and moderate-income Washington County residents. One such program is the Home Access & Repair for the Disabled and Elderly (HARDE), which offers loans or grants for urgent repairs and accessibility improvements. Both conventional and mobile homes may
launched a pilot project in 2013 to replace and repair old and dilapidated manufactured homes—which, according to 26's Comprehensive Plan "supports the provision of needed mobile home sites in mobile home parks and mobile comprehensive plan is most supportive of manufactured housing. The housing needs 20's comprehensive plan, last updated in 2013, 22's Comprehensive Framework Plan recognizes manufactured homes as "an increasingly popular housing choice as conventional site-built single-family housing.

However, a report issued in 2008 by the Lane Council of Governments states that mobile homes and manufactured units in parks comprise 5.1% of all residential units in the county. Washington County's Comprehensive Plan "supports the provision of needed mobile home sites in mobile home parks and mobile home subdivisions throughout the county." It recognizes that a variety of housing types, including manufactured homes, will continue to be in demand, but points out that the need for repair is very high among pre-1976 mobile and manufactured homes in parks where the homeowners do not own the land.19

Multnomah County's Comprehensive Framework Plan recognizes manufactured homes as "an increasingly popular housing choice which should be integrated into the community without conditions in certain zoning districts." The plan also states that manufactured housing must be permitted outright, as it is defined by the Oregon Statutes as a "needed housing type," and sets out locational and structural criteria for mobile homes.20

Curry County's Comprehensive Plan, updated through 2009, recognizes that a large percentage of the population live in mobile homes; in 1990, 33% of the county's dwelling units were mobile homes. In consideration of future housing needs, Curry County notes that manufactured homes will likely be an appropriate form of new housing for working families whose incomes are expected to remain low, as well as for retirees looking for small, conveniently located housing. The plan recognizes the need for many types of housing, and, as part of its housing goals, notes that the County has designated lands for residential use "with conventional homes, multi-family dwellings, manufactured dwellings and mobile homes." The Curry County plan does not address preservation of manufactured home communities.

Lane County's Rural Comprehensive Plan was last updated in June 2009. The plan does not discuss mobile or manufactured homes. However, a report issued in 2008 by the Lane Council of Governments states that mobile homes and manufactured units in parks comprise 5.1% of all residential units in the county.22

Marion County's comprehensive plan notes that mobile homes and manufactured dwellings are allowed in rural areas on the same basis as conventional site-built single-family housing.23 It also discusses the use of manufactured homes as temporary or permanent structures on farmland. Marion County also adopted a strategic plan for 2015 that recognizes the challenges of shrinking population, isolation, access to services, deteriorating infrastructure and lack of affordable housing in rural communities, but does not discuss manufactured homes.25

Douglas County's comprehensive plan, last updated in 2013, states that 64% of all families in the county can afford to purchase a
mobile home and that mobile homes are becoming the “only type of housing that most Douglas County families can afford.” It predicts that “as the gap between income and housing costs widens, the demand for mobile homes, condominiums and single-family attached ownership units will increase.” The plan identifies mobile homes as single-family dwellings and states that mobile home parks will be allowed conditionally in all urban residential areas. Under the housing policies section, the County states that new mobile home parks in rural unincorporated areas should be developed within commercial or rural service center designations.

Two other challenges, particularly in rural areas, are older manufactured home parks with failing septic systems, generally built before Oregon’s land use laws required development within cities (1973), and older parks with spaces that are too narrow for modern manufactured homes, especially with newer local setback requirements.

**ZONING FOR FEE-SIMPLE MANUFACTURED HOMES AND MANUFACTURED HOME COMMUNITIES**

Some states prohibit local jurisdictions from using zoning, subdivision or similar regulations to exclude manufactured homes or manufactured home communities. Oregon prohibits counties and municipalities from completely excluding manufactured homes. It also requires cities and counties to allow manufactured homes in all residential districts within urban growth boundaries, as long as the home meets the same standards that apply to site-built homes, in addition to standards on a few topics such as roof pitch that local jurisdictions are permitted to adopt. State law also requires cities and counties to provide for manufactured home communities as an allowed use.

At the county level, Clackamas County includes a number of zoning provisions in its comprehensive plan. The plan states that the county will allow new manufactured home parks as a primary use in Medium Density Residential zoning districts and will permit mobile homes in lieu of single-family dwellings in future urban, unincorporated community, rural, agriculture and other areas.

Multnomah County’s comprehensive plan permits manufactured homes in Rural and Natural Resource Areas and in Urban Residential Districts. Mobile home parks must be located in either a Medium Density Residential zoning district or a Low Density Residential zoning district. The County has a zoning ordinance that implements these policies.

Washington County’s comprehensive plan specifies a number of zoning standards: single-section manufactured homes are permitted in R-5 and R-6 districts, manufactured dwelling parks and subdivisions are permitted in R-6 districts, and manufactured homes are permitted on the same basis as conventional dwellings in the rural/natural resource area, except in the Rural Residential Land Use District. The Community Development Code section of the Comprehensive Plan includes detailed construction and siting standards for all manufactured home communities, manufactured dwelling parks and manufactured dwelling subdivisions (in which the lots are sold rather than rented). The code notes that manufactured homes “may be placed on a lawfully created lot or parcel, that is not within a manufactured dwelling subdivision, in the R-5, R-6, R-9, R-15, R-24, R-25+, FD-20 and FD-10 Districts subject to compliance” with the provided standards.

A Curry County zoning ordinance states that manufactured dwellings are “permitted outright” in the following residential zones: Residential-1, Residential-2, Residential-3 and Rural Resort Commercial. Special structural requirements are outlined in Section 4.070 for manufactured homes in the Residential-1 zone. Mobile homes (pre-1976) are “permitted outright” in the following zones: Rural Residential, Rural Community Residential, Residential-2, Residential-3, Rural Commercial and Rural Resort Commercial. Manufactured/mobile home parks are permitted as conditional uses in the Residential-2 and Residential-3 zones, subject to standards regarding matters such as parking, road access and compatibility with the comprehensive plan.

In Lane County, manufactured homes appear to meet the definition of “dwelling, single-family,” so would be allowed in any zoning district where site-built single family homes are allowed. Mobile homes (defined as pre-HUD Code homes) used as residences may be located in Suburban Residential Districts (RA), Garden Apartment Residential Districts (RG) or Professional Districts, but only if the district is designated by the suffix “MH.”

The Marion County zoning code for urban areas allows manufactured homes (ones built to the HUD code) in single-family residential districts, but only if they are double-wide or larger and meet standards regarding roof pitch, square footage, foundation and heat loss, and have a carport or garage. There are separate standards for mobile homes and mobile home parks. Its zoning code for rural areas treats mobile home parks in multiple family residential (RM) districts as a conditional use and requires them to meet standards regarding density, yards, driveways, parking, lighting and a variety of other features, plus additional conditions imposed by the jurisdiction. It allows manufactured homes meeting the HUD Code in single-family residential districts if they are at least double-wide and meet criteria regarding roof pitch, square footage, foundation, siding and heat loss, and have a carport or garage.

Douglas County appears to define manufactured homes as single-family dwellings, so they would be permitted in single-family residential districts without special restrictions. Mobile home parks are conditionally permitted uses in these districts, subject to a variety of conditions regarding matters such as density, parking, landscaping, setbacks and approval of the plan.
CONSOLIDATED PLANS

Consolidated plans are documents that local jurisdictions submit to the U.S. Department of Housing and Urban Development (HUD) as part of the Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) funding processes. HUD lists just Clackamas and Washington Counties as having their own consolidated plans.

The 2012-2016 Consolidated Plan for Housing and Community Development in Clackamas County establishes as its second housing goal the stabilization of existing homeownership as well as the provision of opportunities for new homeowners. The plan supports the use of manufactured homes and mobile home parks as a reasonable method of obtaining affordable housing, especially in rural areas. The plan addresses the closure of three parks since 1999, which displaced 349 residents, including many elderly residents, and also mentions the Manufactured Dwelling Parks Preservation Fund, established in Oregon in 2009, which is an “avenue for qualified MFH residents to obtain control of the land when owners are considering selling.” A March 2017 draft of a new consolidated plan for 2017-2021 does not mention mobile or manufactured homes other than to point out that seven percent of the housing units in the county are mobile homes and that there are manufactured home communities in some of the county’s rural towns. In February 2017, the county awarded a CDBG grant to a Mobile/Manufactured Housing Roofing Project to replace roofs on owner occupied mobile/manufactured homes located in manufactured home communities in the county.

Washington County’s 2015-2020 consolidated plan (submitted jointly with the cities of Beaverton and Hillsboro) does not mention manufactured housing or mobile homes.

Several cities in Oregon also have consolidated plans. A consortium of the City of Portland, Multnomah County and the City of Gresham developed a 2016-2020 Consolidated Plan. HUD approved it on August 15, 2016. It does not include any discussion of mobile or manufactured homes. An earlier Portland consolidated plan noted that “the affordable housing supply includes privately owned market-rate units, particularly in older buildings and manufactured home parks,” and that the city has 73 manufactured home communities with 3,629 spaces. The plan’s only other reference to manufactured housing was a statement that the Portland Housing Bureau will continue outreach efforts to inform manufactured home residents about its homebuyer and foreclosure education and counseling activities.

MORATORIUMS ON REDEVELOPMENT

Oregon allows local jurisdictions to adopt a temporary moratorium on development. Moratoriums can be a way to stop the closure of manufactured home communities while the jurisdiction works out a long-term solution. However, ORS 90.660 preempts local governments from regulating manufactured home park closures, so there is not much that a local government can do to stop a closure.

LOCAL TAX AND OTHER FINANCIAL INCENTIVES

The State of Oregon provides tax incentives for manufactured home community owners who sell the community to residents. However, on the local level, no municipalities in Oregon are known to have adopted tax or other financial incentives for preservation of manufactured home communities. The City of Eugene adopted an ordinance, before ORS 90.660 preempted local governments, which requires additional landlord assistance to residents displaced by a park closure.

LOCAL RENT CONTROL

A state statute preempts local governments from adopting rent control, and no municipalities in Oregon are known to have adopted rent control ordinances for manufactured home communities.

STATE & LOCAL POLICY ADVOCATES’ EFFORTS

CASA of Oregon, a ROC USA Certified Technical Assistance Provider, operates in Oregon and is available to help manufactured home community residents buy their communities. Community Frameworks, affiliated with Next Step, services various counties in Oregon. The statewide residents’ organization, Manufactured Housing/Oregon State Tenants’ Association, is another resource for owners of manufactured homes and residents of manufactured housing communities. The Oregon Housing and Community Services Department maintains a website with a great deal of helpful information for residents of manufactured home communities.

An informal group of manufactured home park resident and landlord advocates, the Manufactured Housing Landlord/Tenant Coalition, has negotiated and gotten adopted state laws regarding manufactured home parks in every legislative session since 1997. Many of the statutes cited in this paper came from the Coalition’s efforts.
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.