



**Division of Local
Government Services**

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The James A. Coon Local Government Technical Series is dedicated to the memory of the former Deputy Counsel of the Department of State.

Jim Coon devoted his career to assisting localities in their planning and zoning, and to helping shape the state municipal statutes. His outstanding dedication to public service was demonstrated by his work and his writings, including the work, *All You Ever Wanted to Know About Zoning*. Jim also taught land use law at Albany Law School. His contributions in the area of municipal law were invaluable, and immeasurably improved the quality of life of New Yorkers and their communities.

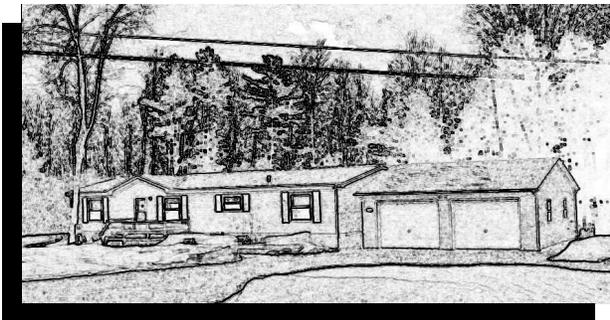
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INTRODUCTION

Manufactured homes have been a popular housing option in New York State for more than 70 years. Formerly called “mobile homes” or “house trailers,” manufactured homes have undergone significant changes within recent decades.

Since 1976, manufactured homes have been built to federal standards in the controlled environment of a factory. They are transported as complete homes or in sections on a permanent chassis that can be rapidly assembled. Moreover, while built on a chassis and (at least initially) transportable, many units are in fact never moved from their original installation site. For these reasons, it has become misleading to refer to models constructed after 1976 as “mobile homes”. This publication instead uses the term “manufactured home” or “manufactured housing” when referring to a manufactured home built on a chassis. The term “mobile home” refers to pre-1976 models and is used only in historical contexts, such as in reference to older court decisions, or in reference to statutes that continue to employ the term. They should also be distinguished from modular homes which, although assembled in a factory, do not have a permanent chassis and are constructed or installed at the building site in accordance with State law.



Manufactured homes continue to be an affordable housing option when compared to the price of site-built homes. Manufactured homes have changed in ways other than price competition. Technology has transformed the manufactured home from the pull-along trailer providing basic living space to the prefabricated house manufactured at a plant and shipped to a site for setup. The vast majority of manufactured homes now closely resemble or are

indistinguishable from site-built homes. An added feature is that they may be installed easily and quickly, and require little or no interior finishing work prior to occupation. The quality and durability of manufactured homes has also greatly improved in recent decades to conform to federal and state construction requirements. This has made manufactured homes an affordable and attractive form of housing for many, on either individual lots or in parks. The purpose of this publication is to provide communities with an overview of the issues surrounding this increasingly popular housing option. Before embarking upon an in-depth examination of manufactured home regulation by local governments as a land use, it is worthwhile to briefly discuss both Federal and New York State regulation of manufactured homes.

FEDERAL AND STATE REGULATION OF MANUFACTURED HOMES

Federal Manufactured Home Construction and Safety Standards Act

Congress adopted the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C.A. § 5403(d)) to regulate the construction and safety of manufactured housing. The next year, the Act was renamed and all references to “mobile homes” were changed to “manufactured homes”¹. The Act defines a “manufactured home” as:

“...a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein...” [42 U.S.C. §5402(6).]

Congress authorized the Department of Housing and Urban Development (HUD) to develop a nationwide construction code intended to reduce insurance costs and property damage, and to improve the quality and durability of manufactured housing. The “HUD Code”(24 CFR Part 3280) became effective July 15, 1976. Homes manufactured after that date must display a “HUD Seal” (data plate) to verify their proper construction. Municipalities may regulate older manufactured homes that do not bear this data plate in a different manner than those required to display the plate. If, however, a “pre-seal” home can pass required state and local structural, electrical and other inspections, it must be allowed on any site where similarly-sized HUD certified homes are allowed.² Municipalities may not make a distinction in their land use regulations based on the age of any homes that *have* a HUD Seal. The federal legislation and HUD Code do not limit the authority of local governments to regulate the location of manufactured housing through zoning.

State Enforcement of Federal Construction and Installation Standards

The NYS Department of State has been designated as the state administrative agency (SAA) to work in cooperation with HUD in enforcing Federal manufactured housing rules. As an SAA, the Department of State’s Division of Code Enforcement and Administration monitors the design and production of manufactured homes in New York for consistency with HUD construction standards. In addition, the Division investigates consumer complaints regarding the performance of manufactured homes. NYS Executive Law § 601 (7) definition of “manufactured home” mirrors the federal definition, set forth above at 42 U.S.C. §5402(6).

Manufactured Homes (mobile homes) vs. Factory Manufactured Homes (modular homes)

Not all housing constructed in a factory is considered “manufactured housing” subject to HUD regulations. A modular home, known in New York as a “factory manufactured home”, is also constructed under controlled conditions in a manufacturing plant.

From a regulatory perspective, it is important to recognize the design differences. Manufactured homes (mobile homes) have minimum size specifications which are set forth in the HUD definition above and have a permanent chassis to which wheels are attached to tow the home to its site. The definition is intended to include single- and double-wide units.

By contrast, a “factory manufactured home” (i.e., a modular home) has no dimensional restrictions and is not built on a chassis. A factory manufactured home is considered a “building” under the NYS Uniform Fire Prevention and Building Code (Uniform Code) in the same manner as site-built housing. Factory manufactured homes (modular home) are defined in Executive Law § 372(8) as

“...a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.”

Factory manufactured homes are certified at the factory as meeting the construction requirements of the Uniform Code. Finished sections are transported to the building site on truck beds, then assembled by contractors at the site.

Municipalities may, through zoning, regulate manufactured homes (mobile homes) as a distinct use and hence differently from site-built housing.³ Courts have opined that a manufactured home (mobile home) cannot be converted into a single family home simply by “removing the vehicle's mobile apparatus and affixing it to the land.”⁴ On the other hand, factory manufactured homes (modular homes) may not be treated differently from site-built homes. Wherever local land use regulations allow the construction of site-built homes, they must also allow factory manufactured (modular) homes.

Local governments must adhere to the provisions of the Uniform Code when regulating the installation of manufactured homes, as well as factory manufactured homes, on a parcel of property. Any local regulation governing installation which is more restrictive than the Uniform Code, whether by zoning law or other law, is subject to prior approval by the NYS Codes Council.

The Codes Division has found that the most prevalent code problem encountered by manufactured home owners is improper installation. To address this issue, the Division recommends that the municipal code enforcement officer perform three inspections when a manufactured home is to be placed on a lot. First, the site should be inspected prior to installation to ensure that it is properly prepared. Second, during installation, the code officer should check to make sure the home's pier locations conform with the requirements of the manufacturer's manual. Finally, after installation, the code officer should make sure the electrical and plumbing connections have been made properly.

State Agency Oversight of Manufactured Homes in Structural Hazard Areas

The New York State Department of Environmental Conservation (DEC) categorizes manufactured homes as “moveable structures” designed and constructed to be readily relocated with minimum disruption of their intended use. As such, whenever manufactured homes are placed in areas DEC has determined to be “structural hazard areas” (e.g., within designated areas of coastal erosion) they are subject to special State rules. [6 NYCRR §505.2(x).]

State Oversight of Manufactured Home Parks

The New York State Division of Housing and Community Renewal (DHCR) is authorized to enforce the provisions of Section 233 of the New York Real Property Law--the Manufactured Home Tenants' “Bill of Rights”. This law protects manufactured home owners or tenants, located within manufactured home parks, from unfair practices by the park's owner. DHCR maintains a 24-hour telephone toll-free hotline for complaints relating to this law. The toll-free telephone number is (800)

432-4210. Additional information about filing a complaint may be obtained at <http://www.dhcr.state.ny.us/Publications/ManufacturedHomesRPL/mhprpl.pdf>.

Local governments may not restrict any right guaranteed under the Manufactured Home Tenants' Bill of Rights.⁵ The New York State Attorney General has, however, held in Informal Opinion 96-30, that the Bill of Rights does not preclude local governments from requiring manufactured home parks to undergo site plan review. Similarly, local governments maintain jurisdiction to regulate the location, density and dimensions of manufactured home sites and park sites through zoning, provided those regulations do not conflict with park owner/tenant relations under the Bill of Rights and are not otherwise pre-empted.

MUNICIPAL REGULATION OF MANUFACTURED HOMES

Although the power to regulate the construction and safety of manufactured homes lies with the Federal government, the authority to regulate them *as a use of land* remains the province of local government. The location and siting of manufactured housing within the community is often addressed by local land use regulations. The question of whether and how to regulate manufactured housing is one that each community must decide based the community's comprehensive plan, which includes the need for affordable housing.⁶

The regulation of manufactured housing has been held by the courts to bear a substantial relation to the "health, safety, morals and general welfare of the community"⁷. Distinct regulation of manufactured homes has been justified as a way to ensure adequacy of potable water and waste disposal, environmental protection, police and fire protection, and other municipal functions that further health, safety and general welfare. This requires a balancing of an individual's interest in using his/her property, with the public's interest both in providing affordable housing as well as in conserving resources and planning for future community development. Some municipalities have adopted regulations confining manufactured homes to parks or courts.

Local government authority to regulate the location, use and siting of manufactured housing derives from several sources. Most familiar are the zoning enabling statutes in the General City Law, Town Law and Village Law, which may employ special use permits. There are also specific statutes granting authority to regulate "mobile homes". Manufactured housing developments, such as courts and parks, are commonly regulated under subdivision review or site plan review.

Zoning Authority

The zoning power may be used by any municipality desiring to define and regulate manufactured homes as a distinct use. The decision to zone for individual manufactured housing dwellings or manufactured housing parks and courts must first be reflected in the community's comprehensive plan. The comprehensive plan must provide for balanced and well ordered development in the community and must give proper regard to local and regional housing needs.⁸ The zoning must afford an opportunity for the establishment of affordable housing consistent with the comprehensive plan. Manufactured homes are oftentimes an affordable housing option.

It is through zoning that most municipalities exercise the greatest control over manufactured homes. A community's zoning law may specify that the manufactured home is allowed only in certain

districts, on individual lots or in parks, or in both. In addition, minimum lot sizes, minimum distances between units, square footage of living space, density in parks, height restrictions, setbacks, provision for parking, and other aspects, may all be specified.

Although a municipality is not required to maintain a “quantitative proportion” of affordable housing, it must consider the needs of the entire region in its comprehensive plan to ensure that all housing needs are and will continue to be met, since the zoning of a community will substantially impact all surrounding communities.⁹ Manufactured housing is often more affordable than site-built homes.

Some municipalities have prohibited them in certain residential zones, even where other forms of housing are allowed, in order to leave space for the expansion of conventional housing. But the wisdom of restricting manufactured homes (which are, after all, residential in nature) to commercial or industrial zones, has been criticized as “not supported by knowledgeable planners, even though it is within the range of the legislative discretion and may be approved by the courts”.¹⁰ Manufactured homes may, therefore, be limited to or excluded from a particular zoning district.

A municipality may not entirely prohibit manufactured homes from the community. In the case of *Town of Pompey v. Parker*¹¹, the court stated:

“A zoning ordinance which absolutely excludes the establishment of a mobile home within its boundaries would be unconstitutional because of the unreasonableness of the restrictions imposed.”

The concept of “regulation” implies the administration of reasonable rules, not outright prohibition. Courts have, therefore, held that any local law or ordinance that prohibits manufactured homes as a use from the entire community is unconstitutional and invalid.¹² Going further, one court has held that a community may not prohibit the establishment of manufactured home parks, even if other provisions are made that allow for manufactured homes on individual lots.¹³

Municipalities may through zoning also set minimum lot size requirements per residence, to ensure that areas, particularly manufactured home parks, do not become overcrowded; and to ensure there is no strain on municipal resources. The proposed lot must be able to support the number of manufactured homes to be placed there.¹⁴ For example, a zoning regulation which called for a minimum of 900 square feet of floor space and a minimum lot size of 10,000 square feet for all dwellings, including manufactured homes, was held to be a valid exercise of the police power.¹⁵

Special Use Permits

Some municipalities subject manufactured homes to special use permit review before being sited. A special use permit authorizes a particular land use - a manufactured home park for instance - which is permitted in a zoning regulations, subject to requirements imposed by the zoning regulations to ensure that the proposed use is in harmony with the zoning and will not adversely affect the neighborhood if such requirements are met. Commonly, a municipality empowers a local board, such as the planning board or zoning board of appeals, to decide on a case-by-case basis whether a particular parcel is appropriate for the siting of either an individual manufactured home or a manufactured home park. If the special use permit is granted, the applicant may place the unit, or the

development, on the parcel, subject to reasonable conditions and restrictions designed to further the use's compatibility with the neighborhood. Such conditions may include factors such as adequacy of waste disposal, drainage, parking, placement of the home on a permanent foundation, and other requirements reasonably related to health, safety and general welfare. Special use permit authority is found in all the municipal zoning enabling statutes.¹⁶



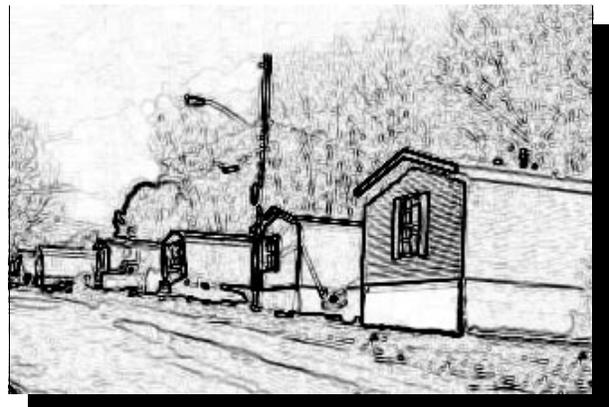
Free-Standing Authority

Town Law § 130 sets forth specific language authorizing the regulation of “[h]ouse trailer camps, tourist camps and house trailers”.¹⁷ While the language of this statute is arcane, it may still be used as separate authority to regulate manufactured housing even if a town has not adopted zoning¹⁸. Some towns have implemented a permit system for the ongoing placement and occupation of manufactured homes. Courts have held that it is a valid exercise of power under Town Law § 130 to require a landowner to periodically obtain a permit from the municipality, owing to particular issues relating to public health and safety.¹⁹ A permit system allows a municipal board to exercise its discretion when determining whether or not a manufactured home constitutes an appropriate use of the land on an ongoing basis, without the municipality’s having to enact more comprehensive forms of manufactured home regulation.

Another free-standing source of local government power to enact local laws regulating the siting of manufactured homes is Municipal Home Rule Law §10, titled “General powers of local governments to adopt and amend local laws”, in the interest of advancing “[t]he government, protection, order, conduct, safety, health and well-being of persons or property therein.”²⁰ In one case it was held permissible for a town to exclude all manufactured homes with the exception of those allowed for one year by a special use permit from the town board. As this approach did not amount to the total prohibition of manufactured homes from the community, it was held a valid exercise of the police power pursuant to Municipal Home Rule Law § 10 and Town Law § 130.²¹

MANUFACTURED HOME PARKS

Some local governments restrict the location of manufactured home to designated developments often called parks. The courts have found it to be permissible for municipalities to limit manufactured home use strictly to manufactured home parks, owing to considerations such as: ease in overseeing the proper use of waste disposal systems, water supplies and electricity, placing less hardship on the local police and fire forces, and contributing to the conservation of municipal resources.²² Courts recognize that a manufactured home park is a commercial business despite its residential nature.²³ Municipalities may also, through zoning, limit manufactured homes and manufactured home parks to certain zones, consistent with a comprehensive plan.²⁴



In the past, these parks often suffered from poor design, overcrowding and unhealthful conditions. These mistakes do not have to be repeated in the future. If well designed, manufactured home parks can be healthful, attractive developments, providing an excellent quality of life for the residents. While the owners of such parks should be applauded for their efforts, the difference may also be the product of good planning at the municipal level.

Nationwide, in 2005, roughly 56% of all manufactured home owners lived on their own individually-owned lot, while about 35% rented a lot in a manufactured home park. Of those individually-owned lots, about one-ninth were located in subdivisions specifically laid out for manufactured homes.²⁵ A parcel may be subdivided, with individual lots sold to manufactured home owners for placement of their homes. On the other hand, a parcel may remain in the ownership of one individual who rents out sites for manufactured home placement.

The two regulatory mechanisms of subdivision review and site plan review, which are available to municipalities even where zoning does not exist, are very effective methods to address the challenges presented by manufactured home parks.

The full array of other regulatory authorities--zoning, special use permits, site plan review and free-standing authority may also be utilized to address the development of manufactured home parks. Zoning, for example, could be the mechanism which stipulates that manufactured homes may be located *only* in parks.

Subdivision Review

Where the property is to be divided into lots, blocks or sites, the local governing body may delegate to the municipal planning board the authority to review and approve subdivision plats. Town Law §277 provides the requirements the planning board may impose during the subdivision review process. As part of the review process, the planning board has the authority to require the developer of a manufactured home park to install suitable roads, signs, street lighting, curbs, gutters, parks, sidewalks, paving, street trees, water mains and other amenities necessary to a quality development and way of life--although not all of these will be necessary or appropriate in a given situation.

Municipalities may, by resolution, stipulate that whenever land is to be divided into a specified minimum number of lots, blocks or sites, the owner may be required to undergo subdivision review before the local planning board.²⁶ The subdivision review process may be utilized in the review of manufactured home parks or developments, either with or without local zoning regulation. A municipality may adopt subdivision review requirements even if it has no zoning.

One court has stated:

“Subdivision control is aimed at protecting the community from an uneconomical development of land, and assuring persons living in an area where the subdivision is sought that there will be adequate streets, sewers, water supply, and other essential services...”²⁷

Although the subdivision enabling statutes are quite specific and could alone form the basis for conducting subdivision review, the municipality may adopt its own additional subdivision review regulations that are consistent with (though perhaps more detailed than) State law.

Manufactured Home Parks

When drafting regulations for site plan review of manufactured home parks, the governing board should specify all relevant factors for the reviewing board to consider, including:

Regional and local environs

Relationship to comprehensive plan
 Compatibility with surroundings
 Accessibility
 - pedestrian
 - biking
 - automobile
 - trucking
 - public transportation
 Environmental impact
 - air, water, noise
 Facilities and services availability
 Visual compatibility
 Historic and archaeological considerations

Natural features

Geology
 Topography
 Soil characteristics
 Vegetation
 Wildlife
 Open space
 Surface drainage
 Erosion
 Ground waters
 Wetlands
 Flood hazard areas

Site Plan Review

Where a tract of land is to remain in single ownership, but sites are to be rented out for individual home placement, a community may wish to review the entire development under its site plan review authority. Site plans depict the intended arrangement, layout and design of development on a single parcel of land.

Site plan review can be made a part of the zoning regulation or can be adopted as a separate law. Importantly, local site plan regulations must list the elements to be included in site plans submitted for review. The governing board may delegate the actual review and approval function to an appointed body such as the planning board or zoning board of appeals, or it may retain the review and approval function itself.²⁸ The statutes allow the reviewing body to impose reasonable conditions and restrictions related to the proposed site plan. Many of the problems that have plagued manufactured home parks, and for which they were criticized in the past, can be addressed through this review process.

The site plan approval process allows the local board to review the siting of a manufactured home on a parcel of land based on certain standards, such as its location on the lot, connection to utilities, location of driveways and accessory structures, and other elements related to the development of the property for the proposed use. Through site plan review, the locality may exercise greater control over the impacts of a manufactured home park on the community, while providing future tenants with desirable living conditions.

OTHER CONSIDERATIONS ABOUT MANUFACTURED HOME REGULATION

A Municipality May Not Entirely Prohibit Based On Lack of Consent of Neighbors

A type of municipal regulation that has been invalidated is the requirement for the consent of neighbors or adjoining property owners as a condition of approval of the proposed location of a manufactured home or manufactured home park. Since neither use is a general nuisance, it is impermissible for local governments to require the approval of neighboring landowners for their establishment.²⁹

Minimum Square Footage Requirements

Municipalities may require that residences, including manufactured homes have a minimum amount of habitable floor space. For example, a regulation that called for at least 900 square feet for all residential buildings of less than two stories in a given zone was upheld, even though it effectively eliminated all manufactured homes, because “the amount of space occupied by a family is closely associated with the health, safety, morals and general welfare of the community”.³⁰ It is important to note that in this case the town had made provisions for manufactured homes to be located in parks in other districts, so they were not entirely excluded.

Manufactured Homes as Farm Worker Housing

Some localities have permissibly limited manufactured homes to agricultural zones, allowing farmers to set up one or two such homes for themselves or their full time employees.³¹ However, the New York State Department of Agriculture and Markets has issued informal opinions that local regulation of manufactured homes in agricultural districts may violate the Agriculture and Markets Law. That agency has expressed concern that restrictions on manufactured homes may adversely impact agricultural operations in the State because manufactured homes are often the only housing available for farm workers. (See the Department of State/Department of Agriculture and Markets publication, *Local Laws and Agricultural Districts: How Do They Relate?* at [http://www.dos.ny.gov/LG/publications/Local Laws and Agricultural Districts.pdf](http://www.dos.ny.gov/LG/publications/Local_Laws_and_Agricultural_Districts.pdf))

ASSESSMENT AND TAXATION OF MANUFACTURED HOMES

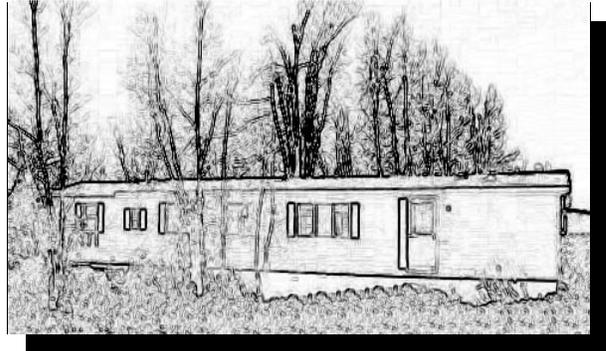
The taxation of manufactured homes is important to ensure adequate funds for municipal resources. The residents of manufactured homes and manufactured home parks enjoy fire and police protection, public schools, the public highway system, and electric, gas, water and waste disposal systems, all of which are at least partially funded by local taxes.

Manufactured homes have generally been classified as real property for the purposes of taxation and assessment, and when they are being used as living quarters and are immobile they become “attached to the freehold”. Real Property Tax Law, section 102(12)(g) states that “The value of any trailer or mobile home shall be included in the assessment of the land on which it is located...”. Thus, the property taxes of an individual lot owner will reflect the combined values of the land and the manufactured home. In the case of a manufactured home park, property taxes are assessed against the

park owner, who in turn may be able to adjust rental fees to compensate for them, shifting the burden back to the occupant.³²

MANUFACTURED HOMES AS NONCONFORMING USES

In many instances, manufactured homes and manufactured home parks were located on a site before zoning, local laws, or other regulations were enacted, and may well have become lawful nonconforming uses at their location. Generally, this means they are allowed to remain, provided they are not abandoned or destroyed. It has, however, been held lawful for communities to phase out lawful nonconforming uses, provided a reasonable amortization period is allowed.³³



In order to be nonconforming, a use must actually be established before the enactment of any legislation that would otherwise regulate or prevent it. In one case, a manufactured home had enjoyed nonconforming use status, but was removed from the land before the land was sold. The new landowner attempted to claim that he had a right to place a new manufactured home on the site, but the court disagreed finding that the evidence did not establish prior use of the property for manufactured housing.³⁴ Moreover, mere *contemplation* of a use will not confer nonconforming status. For example, where a parcel of land was purchased for placement of a manufactured home, but the town enacted a minimum lot size requirement before the home was installed, it was held that a nonconforming use was not established.³⁵

Elimination of Nonconforming Manufactured Homes

Two common methods to address and achieve the elimination of nonconforming uses appear frequently in local zoning laws. The first provides that if any nonconforming use is not active for a specified period (most commonly one year), it is deemed abandoned and may be resumed only with permission from the municipality. The second method provides that destruction beyond a certain percentage of the building itself, or of its monetary value (commonly 50% or more) will require any further use of the land to conform with permitted zoning uses. Both of these approaches have been upheld by the courts.

A town's law providing for the loss of a manufactured home park's nonconforming status upon abandonment of the use for over three years was upheld as valid³⁶. In another case the Court of Appeals upheld a local zoning provision that terminated a manufactured home's nonconforming use status upon transfer of its ownership, rather than a prescribed grace period.³⁷

The Court of Appeals has also held that an existing nonconforming use of land will be permitted to continue if "enforcement of the ordinance would, by rendering valueless substantial improvements or businesses built up over the years, cause serious financial harm to the property owner".³⁸ This general rule has been interpreted such that the owner of a manufactured home that

is a lawful nonconforming use is entitled to replace the home with a newer unit of the same size.³⁹ The common law right to maintain a nonconforming use applies only to that portion of the land actually occupied by the use as originally configured.

A third, and far less frequently-used approach, is that of amortization, followed by termination of the use. While the mandated phase-out of an ongoing use of land is almost always a controversial matter, amortization has been upheld by the courts where it is shown to comport with a validly-developed comprehensive plan. It allows a municipality to place a present limit on the length of time a landowner is entitled to continue a nonconforming manufactured home use. At the end of the given time the use must end or the owner will be in violation of the governing local law.

Amortization is constitutionally valid because it provides for a time period to allow the owner to recoup the value of his or her investment, while at the same time promoting community development in furtherance of the comprehensive plan. In addition, once the nonconforming use itself terminates, the owner still has the right to use the land for any use allowed under the applicable zoning. While the period of time must be reasonable, and will depend on original investment as well as ongoing manufactured home values in a given community, one court has decided that three years was too short an amortization period for the phasing out of a nonconforming manufactured home park.⁴⁰

Owners of nonconforming manufactured home parks or courts may at times want to expand the use. Some municipal zoning regulations contain provisions that allow for the enlargement of these nonconforming uses. For example, the owner of a nine-unit nonconforming manufactured home park wanted to enlarge the park to 23 units, but the proposal was held to constitute an illegal extension of a nonconforming use under the municipality's regulations.⁴¹ While expansion of nonconforming uses is prohibited in many local enactments, the replacement of individual manufactured home units is commonly permitted.

CONCLUSION

Manufactured homes are a form of affordable housing, desired by many members of the community, but they continue to raise community planning issues. Although manufactured homes may not be completely excluded from a community, they may be fairly regulated for the benefit both of their residents as well as other citizens of the municipality. Such reasonable regulation can, and should, further the community's planning goals, protect community character, and improve its quality of life.

Endnotes

1. In 1975, Congress passed the Housing and Community Development Act of 1980 (Public Law 96-399) which substituted the terms "manufactured housing" for the terms "mobile home" in all relevant sections of the law.
2. *Rivers v. Corron*, 160 Misc. 2d 968 (Sup. Ct., Clinton Co., 1993).
3. *In People v. Clute*, 18 N.Y.2d 999 (1966), the Court of Appeals upheld the constitutionality of a zoning regulation that distinguished "mobile homes" from site-built housing. See also *Town of Pompey v. Parker*, 53 A.D.2d 125 (4th Dept. 1976) *aff'd* 44 N.Y.2d 805 (1978); *Village Bd. of Trustees of Village of Malone v. Zoning Bd. of Appeals of Village of Malone*, 164 A.D.2d 24 (3rd Dept. 1990) ("Although a mobile home is certainly capable of use as a dwelling, it is not a single-family dwelling as that term is used in the Village Code and is not a permitted use in a residential district.")
4. *Village Bd. of Trustees of Village of Malone v. Zoning Bd. of Appeals of Village of Malone*, *supra*, 164 AD2d at 27.
5. *Ba Mar Inc., v. County of Rockland*, 164 A.D.2d 605 (2nd Dept., 1991).
6. *Town of Huntington v. Transon*, 43 Misc.2d 912 (Sup. Ct., Suffolk Co., 1964).
7. *Corning v. Town of Ontario*, 204 Misc. 38 (Sup. Ct., Wayne Co., 1953).
8. *Asian Americans for Equality v. Koch*, 72 N.Y.2d 121 (1988)
9. *Berenson v. Town of New Castle*, *supra*.
10. Salkin, *N.Y. Zoning Law and Practice*, *supra*, §21:08.
11. 53 A.D.2d 125, 127 (4th Dept., 1976), *aff'd* 44 N.Y.2d 805 (1978).
12. *Town of Pompey v. Parker*, *Id.*, 44 N.Y.2d 805, citing *Dowsey v. Village of Kensington*, 257 N.Y. 221, 230 (1931) and Town Law §130(21), *supra*.
13. *Koston v. Town of Newburgh*, 45 Misc.2d 382 (Sup. Ct., Orange Co., 1965).
14. *Blachly v. Harris*, 125 A.D.2d 467 (2nd Dept. 1986), *mot. for lv. to app. den.*, 72 N.Y.2d 803 (1988).
15. *Osetek v. Barone*, 60 Misc.2d 980 (Sup. Ct., Orange Co., 1968), *aff'd.*, 35 A.D.2d 910 (2nd Dept., 1970).
16. Gen. City L. §27-b; Town L. §274-b; Vil. L. §7-725-b.
17. Town Law §130(21) confers authority to a town to regulate as follows: "House trailer camps, tourist camps and house trailers. Regulating house trailer camps, tourist camps or similar

establishments; requiring approval of suitable plans for house trailer camps and tourist camps and prescribing regulations therefor including provision for sewer connection, water supply, toilets, bathing facilities, garbage removal, registration of occupants, inspection of camps. The town board may either adopt the provisions of the sanitary code established by the public health council or may formulate other rules and regulations relating to house trailer camps, tourist camps or similar establishments not inconsistent with the provisions of such state sanitary code. Regulating the parking, storage or otherwise locating of house trailers when used or occupied as living or sleeping quarters in any part of the town outside an established house trailer camp, tourist camp or similar establishment; providing time limits on duration of the stay of such house trailers and requiring registration of such house trailers when so used.”

18. *Hill v. Town of Elbridge Zoning Bd. of Appeals*, 112 A.D.2d 45 (4th Dept. 1985)
19. *Town of Perinton v. Muzeka*, 141 N.Y.S.2d 607 (Sup. Ct., Monroe Co., 1955).
20. Section 10 provides, in part: “1. In addition to powers granted in the constitution, the statute of local governments or in any other law,... (ii) every local government, as provided in this chapter, shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law, relating to the following subjects, whether or not they relate to the property, affairs or government of such local government, except to the extent that the legislature shall restrict the adoption of such a local law relating to other than the property, affairs or government of such local government: a. A county, city, town or village:...
 - (11) The protection and enhancement of its physical and visual environment.
 - (12) The government, protection, order, conduct, safety, health and well-being of persons or property therein.”
21. *Town of Pompey v. Parker*, supra.
22. *People v. Clute*, 47 Misc.2d 1005 (County Ct., Washington Co., 1965).
23. *Hansen v. Ponticello*, 37 A.D.2d 892 (3rd Dept., 1971); *Jewel Equities Corp. v. Town of Amenia*, 114 A.D.2d 353 (2nd Dept., 1985).
24. Id.
25. Source: *Manufactured Homes: The Market Facts 2005 Report*, Foremost Insurance Group, pub.
26. Gen. City L. §32; Town L. §276; Vil. L. §7-728.
27. *Marx v. Zoning Board of Appeals of the Village of Mill Neck*, 137 A.D.2d 333, 336 (2nd Dept., 1988).
28. For site plan review authority in general, see Gen. City L. §27-a; Town L. §274-a; Vil. L. §7-725-a.

29. *Town of Gardiner v. Stanley Orchards, Inc.*, 105 Misc.2d 460 (Sup. Ct. Ulster Co. 1980) *Bashant v. Walter*, 78 Misc.2d 64 (Sup. Ct., Oneida Co., 1974), citing *Concordia Collegiate Inst. v. Miller*, 301 N.Y. 189 (1950).
30. *Corning v. Ontario*, supra, citing Town Law section 261.
31. *Kinderhill Farm Breeding Associates v. Walker*, 54 A.D.2d 811 (3rd Dept. 1976), aff'd. 42 N.Y.2d 919 (1977); *Gardner v. Phillips*, 59 Misc.2d 934 (Sup. Ct., Ontario Co., 1969).
32. See *N.Y. Mobile Homes Association v. Steckel*, Id.
33. See *Harbison v. City of Buffalo*, 4 N.Y.2d 553 (1958); *People v. Miller*, 304 N.Y. 105 (1952).
34. *Town of Perinton v. Muzeka*, supra.
35. *Berchielli v. Zoning Board of Appeals of the Town of Westerlo*, 202 A.D.2d 733 (3rd Dept., 1994), mot. for lv. to app. den., 83 N.Y.2d 757 (1994).
36. *Town Board of the Town of Southampton v. Credidio*, 21 A.D.3d 547 (2nd Dept., 2005). See also *Matter of Pelham Esplanade, Inc. v. Board of Trustees of the Village of Pelham Manor*, 77 N.Y.2d 66 (1990) (destruction beyond a given percentage of value).
37. *Village of Valatie v. Smith*, 83 N.Y.2d 396 (1994).
38. *People v. Miller*, supra.
39. *Barron v. Getnick*, 107 A.D.2d 1017 (4th Dept., 1985).
40. *Ouimet v. Frasier*, 240 A.D.2d 906 (3rd Dept., 1997).
41. *Cave v. Zoning Board of Appeals of the Village of Fredonia*, 49 A.D.2d 228 (4th Dept., 1975), mot. for lv. to app. den., 38 N.Y.2d 710 (1976).