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Municipal Regulation of Mobile Homes

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MUNICIPAL REGULATION OF MOBILE HOMES

Municipal regulation of mobile homes can present a variety of challenges that merit consideration. In order to gain perspective on a city's ability to regulate mobile homes, we first must understand exactly what they are. It is not as simple as distinguishing a single-wide versus double-wide. With the clarification of what we are dealing with, we can explore the available statutory tools, starting with municipal ordinances and ending with code enforcement. From there, the unique enforcement issues raised by homes on wheels must be understood. Lastly, we must examine the potential pitfalls raised by the Fair Housing Act as to our ability to successfully implement a regulatory and enforcement strategy for mobile homes.

I.

What is a mobile home?

While it seems readily visible to determine what is and is not a "mobile home", a deeper look into both State and Federal law is necessary to really understand what you are dealing with. There are a number of terms that attempt to describe a mobile home—"trailer home," "single-wide", "double-wide," "modular home," and "manufactured home". However, the Federal and State regulatory schemes governing these types of housing make critical distinctions between these categories. Federal and State laws have generally recognized three specific types of non-stick built residential structures: mobile homes, HUD-Code manufactured homes, and industrial (or modular) homes. The Texas Manufactured Housing Standards Act (MHSA) is codified in the Texas Occupations Code, which provides definitions of mobile, modular, and HUD-Code manufactured homes.

A. Mobile Home

A "mobile home" is defined as a "structure that was constructed *before* June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet." TEX. OCC. CODE § 1201.003(20).

B. HUD-Code Manufactured Home

A "manufactured home" is defined as "a HUD-Code manufactured home or a mobile home." *Id.* § 1201.003(18). A "HUD-Code manufactured home" is defined as a "structure constructed *on or after* June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet." *Id.* § 1201.003(12). A HUD Code

manufactured home displays a red certification label on the exterior of each section. This label serves as the manufacturer's certification that the section is built in accordance with U.S. Department of Housing and Urban Development standards.

C. Modular Home

Another chapter in the Occupations Code defines an "industrialized" or "modular" home as a structure "designed for the occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system." *Id.* § 1202.002. A modular home will have a blue decal issued by the Texas Department of Licensing and Regulation signifying that the home has been built to comply with the International Residential Code. More information on industrialized homes is available at <http://www.tdlr.state.tx.us/index.htm>.

D. Not a mobile home

Although they share a number of similarities to mobile homes, recreational vehicles and "tiny homes" do not fall under the definition or regulatory classification of mobile homes. RV is short for "recreational vehicle," and "RVs should be built in accordance with National Fire Protection Association and American National Standards Institute RV standards, not HUD manufactured home standards. Manufactured homes are designed and built for permanent residency, while RVs are designed and built to be used by families as a recreational, camping, or seasonal accommodation." Further, while tiny home advocates would like to develop a new legal classification for tiny homes as primary housing, the default is that a tiny house on wheels is considered an RV, and a tiny house on a foundation is considered an accessory dwelling unit (ADU). In the absence of local regulations for parking a tiny house on wheels, RV rules generally apply. Tiny homes with wheels are legally considered RVs. The only regulatory accommodation made for tiny homes came in 2015 when the IRC removed the requirement that a dwelling unit have a minimum of 120 square feet, replacing it with a 70-square-foot minimum. However, many local zoning codes still require a minimum of 800 or even 1,500 square feet for dwelling units.

II.

What are the regulatory options for municipalities?

The basic source of authority for a municipality to engage in mobile home code enforcement activity can be found in State law. The range of options available begins with the adoption of ordinances. The governing body of any municipality may adopt an ordinance that: (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality. TEX. LOC. GOV'T. CODE § 51.001. Beyond that, municipal authority to

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