



**KEEPING AMERICA'S DREAM AFFORDABLE**

## Zoning Pre-Emption Laws

The installation of manufactured homes is governed by the Department of Housing and Urban Development (HUD). HUD has an established cooperative agreement with the Tennessee Department of Commerce & Insurance (State Fire Marshal/Manufactured Housing Division), to be their regulatory agent in Tennessee. Therefore, the installation and inspection of all manufactured homes in this state falls under the jurisdiction of that state department.

### Federal guidance:

In general, HUD code multi-section homes enjoy a federal preemption which allows a home to cross state, county and city lines, without retribution. HUD follows guidance on a variety of topics via the Department's National Manufactured Housing Construction and Safety Standards Act of 1974, and as amended by the Manufactured Housing Improvement Act of 2000 (the Act). 24 C.F.R. §3282.11 Preemption and Reciprocity... among other preemptive items states '*No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the Federal superintendence of the manufactured home industry as established by the Act.*'

### State guidance:

The State of Tennessee also has laws in place, which mirror preemptive guidance as issued under federal law, as it relates to zoning, construction installation, etc. For example:

- T.C.A. 13-24-201, Exclusion of manufactured residential dwellings prohibited - states in part, '*Notwithstanding any provision of the law to the contrary, no power or authority granted by this code to regulate zoning or land use planning shall be used to exclude the placement of a residential dwelling on land designated for residential use solely because the dwelling is partially or completely constructed in a manufacturing facility.*'
- T.C.A 68-126-412, Preemption – Supersession – states, '*It is the intention of the general assembly that this part, and the regulations issued pursuant thereto, preempt any local ordinance or regulation of the installation of manufactured homes. All city, county and consolidated government resolutions, ordinances, regulations and code requirements on installation of manufactured homes are superseded by the provisions of this chapter, and regulations issued thereto.*'

It is the purpose of HUD and the State of Tennessee, to afford individuals the choice of affordable housing, and to ensure all citizens maintain their rights to enjoy their individual property, under the laws as they are written. That right is afforded to all citizens.

Cities may exclude single section homes, if written within their local ordinance, but federal and state law does not permit the denial of multi-section homes in areas which have been zoned residential. The exception would be a deed restriction or subdivision covenant.

Counties may not exclude single or multi-section homes in areas which have been zoned residential. The exception would be a deed restriction or subdivision covenant.