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ZONING FOR MANUFACTURED HOUSING:
A CASE STUDY
IN
MISSOULA, MONTANA

By

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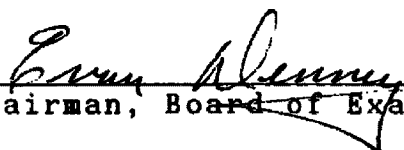
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the requirements for the degree of

Master of Science

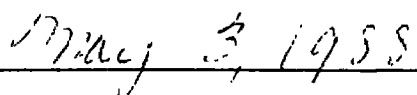
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This paper is dedicated to my wife Leslie for without her help it would not have been completed. She provided the motivation to write it along with her time editing and typing.

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CHAPTER I

INTRODUCTION

In recent years manufactured housing has become an important source of housing. However, there is considerable resistance to this form of housing from local agencies, such as zoning/planning departments, that regulate housing within the community. Several justifications have been used to exclude or limit manufactured housing, but in essence manufactured housing is viewed as a downgrading element which reduces housing values within an area. This view is becoming increasingly archaic given the changes in the quality and design of manufactured housing. The regulatory response of local agencies has been the outright prohibition of manufactured housing, the regulation of their use to special districts or parks, or requiring them to have minimum lots sizes well in excess of comparable urban single-family lots. The result is the exclusion of manufactured housing from most urban neighborhoods.

There are many reasons for changes in the supply and demand of manufactured housing. In the past thirty years, the characteristics of new housing supplies have changed due to the cost of conventional site-built single-family housing. While the average construction costs of site-built single-family dwellings have continued to increase, the average construction cost of manufactured housing has

increased very little or decreased. Along with this, the quality and design of manufactured housing has significantly improved, which has heightened its acceptability.

Demographic factors have also influenced a shift toward the use of manufactured housing. The number of heads of households in two groups, under 35 years of age and over 55 years of age, has been steadily increasing since 1960. These two groups, for different reasons, are the primary purchasers of manufactured housing. In addition, the prime customers of conventional single-family housing, those individuals between the ages of 35 and 54, have become a new source of purchasers as manufactured housing has increased in size and improved in quality.

While there has been a significant shift in the supply and demand of conventional and manufactured housing, the response from local planning and regulatory agencies has been limited. Local controls are frequently obsolete, inadequate, and usually discriminatory. Many jurisdictions have completely prohibited mobile homes, while others have placed severe limitations on where they can be located. The inability of land use controls to adapt to the increased use of manufactured housing has led to what many people believe are exclusionary laws that discriminate against those individuals unable to purchase conventional single-family housing. As a result, lawsuits have arisen across the

nation challenging exclusionary laws which prohibit manufactured housing.

Recent judicial decisions have resulted in the same conclusion; many of the existing regulations concerning manufactured housing are exclusionary and need to be revised. The courts have found zoning ordinances invalid which totally exclude or are too restrictive of manufactured housing. In fact, the courts are increasingly finding that manufactured housing should be treated the same as conventional single-family housing when determining where it can be located. In light of these decisions, administrators need to adapt their zoning ordinances to permit manufactured housing. Planners must find more innovative methods to integrate manufactured housing into traditional single-family neighborhoods.

Scope of Study

This paper is an analysis of the problem of zoning for manufactured housing in Missoula, Montana. A review of the trends in manufactured housing is studied, including the history of the industry, the factors affecting supply and demand of manufactured housing, and the regulations and legal opinions concerning their use. The next section of the paper is concerned with the current situation in Missoula, Montana and its efforts to regulate manufactured housing. In the last section of this study, various

approaches and alternatives to zoning for manufactured housing are considered which could be adopted by Missoula to update its regulations.

Research Methodology

The first section studies the trends of manufactured housing, including the forces affecting supply and demand, and the laws concerning their use. Information in this section is drawn from various sources including census reports, housing reports, and publications that present legal opinions and case studies concerning land use law. A review of legal opinions and court cases determines what is required by law, as interpreted by the judicial system.

In the next section of this paper, information is provided through my experiences in zoning and working with the Missoula zoning regulations. The current regulations are reviewed, with an analysis of the existing problems in Missoula.

The last section concentrates on alternatives to zoning regulations for manufactured housing. Zoning regulations of other jurisdictions are reviewed. Through this study, various approaches and alternatives become evident from which a preferred solution to Missoula's problem can be found.

CHAPTER II

TRENDS IN MANUFACTURED HOUSING

The manufactured housing industry has changed significantly since its beginnings in the 1930's. Throughout its history, the industry has steadily grown as a source of primary housing. This acceptance has been the result of the evolution from travel trailers intended as recreational vehicles to units specifically designed for permanent residency. In addition, there have been significant historical events that created serious housing shortages. Mobile dwellings were frequently used to fill these gaps which gradually changed the attitude of people about their use as a form of primary housing.

While the general population has begun to accept mobile home living more favorably, its acceptance by regulators of housing has been much slower. Considerable resistance to this form of housing has been evident from the regulations used to exclude mobile homes from traditional single-family neighborhoods. The response from local planning and regulatory agencies has been deficient in planning for places to locate manufactured housing. As a result, there are numerous legal opinions and court decisions which have recently challenged the current status of manufactured housing. In this section, the manufactured housing industry

is analyzed, along with a review of the legal opinions that have affected the industry.

History of the Manufactured Housing Industry

Many transformations have taken place in the manufactured housing industry since its inception. The origin of today's manufactured housing began in the early 1930's when the first house trailers were made for recreational use, but with the onset of the Great Depression, more and more people began to live in their trailers permanently. The potential of mobile dwellings was recognized with the onset of World War II, as serious housing shortages developed. The use of mobile dwellings by large numbers of workers and servicemen had a positive effect on the mobile dwelling industry. During this time period the idea of trailers as primary housing became more acceptable. Post-war America was being prepared for the emergence of the mobile dwelling manufacturer as a primary supplier in the housing market.

The demography of the post-war period shifted so as to further develop the mobile dwelling industry. Severe housing shortages, created by large construction projects, required migrant workers to utilize mobile homes in increasing numbers. This trend continued during the hostilities in Korea as vast numbers of workers were used

for the construction of large energy projects located in isolated parts of the country.

The transformation of mobile housing from recreational use to primary housing was highlighted in 1952. At this time the industry split into two distinctly separate industries. The "mobile home" industry began to concentrate exclusively on the production of units built for primary housing. With various design improvements, the industry continued to grow. A significant change in mobile homes was the increase in width. Originally, the mobile dwelling was limited to eight foot widths due to transportation restrictions. The industry experienced tremendous growth from 1963 and on when many states finally amended their highway regulations to allow 12 and 14 foot wide units. In the years 1962 to 1972, there was a 500 percent increase in production volume, with production hitting a peak in 1972 with almost 600,000 shipments.¹

With the demand for low-cost housing came the continued growth of the mobile home industry. New innovations in the industry provided additional options for the purchasers of low-cost housing. In the late 1970's, the industry adopted a new term for their expanded product line, "manufactured housing." This new name was needed given the variety of types and sizes of units being produced.

¹ Arthur D. Burnhardt, Building Tomorrow: The Mobile/Manufactured Housing Industry, (Cambridge, Massachusetts: MIT Press, 1980), p. 31.

The Supply and Demand of Manufactured Housing

The supply and demand of manufactured housing is influenced by many factors. The supply side of this issue will be concerned primarily with the cost of manufactured housing. Included is a look at why manufactured housing is generally less expensive to produce and how it compares to conventional site-built homes. The related subjects of appreciation and annual number of shipments is also reviewed. After looking at why manufactured housing is considered an alternative low-cost form of housing, the demand side of the issue is examined. This deals primarily with who purchases manufactured housing.

The popularity of manufactured housing has come about as an alternative for purchasers of low-cost housing. As the cost of new site-built housing continues to rise, it has placed an ever larger segment of our population in a housing dilemma. Traditional avenues to home ownership have been placed beyond the buying power of various segments of our population.

In 1982, Housing and Urban Development (HUD) secretary Samuel R. Pierce, Jr. announced that only 15 percent of potential first time new home buyers could afford to purchase an average priced new home.² This was down from

² "Planners Consider Manufactured Housing Issue," The Western Planner, Vol. 5, No. 9, (November 1984), p. 1.

50 percent of the first-time buyers just ten years previous. In addition, it was noted that over 60 percent of those who owned a home would not be able to purchase the same home under current market conditions without using the equity gained in their homes.

Manufactured housing appears to provide some hope to purchasers of single-family housing. As of 1984, manufactured housing represented approximately 36 percent of all new single-family residences in the United States.³ In addition, of all new homes costing less than \$40,000, 90 percent were manufactured homes.

Construction costs represent the largest component of the cost of most new housing. Manufactured housing is generally less expensive to build than site-built housing. Savings can be realized for several reasons. Bulk material purchases, task specialization, both at the management level as well as the construction level, and favorable financial treatment can all be realized through economies of scale. Additional savings can be accrued through construction efficiencies and schedules independent of weather conditions. The assembly line approach and task-specific skill requirements further reduce the cost of construction.

The cost of manufactured housing can vary considerably depending on the size and quality of the unit. Comparisons

³Ron Clarke, "Manufactured Housing - Affordable Choice," The Western Planner, Vol. 5, No. 9, (November 1984), p. 3.

of manufactured housing to conventional site-built housing varies as well depending on who is making the estimates and the location of the housing being surveyed. Furthermore, it is difficult to determine comparable costs. Cost figures for manufactured housing usually include furnishings and appliances but exclude the cost of the foundation and other set-up charges. It is estimated that this latter portion usually amounts to about 15 percent of the new home cost. Additionally, some comparisons do not break down costs by size of units, but lump all manufactured homes sold to determine an average cost.

Based on nationwide estimates, the Manufactured Housing Institute has determined cost and size comparisons of manufactured homes and site-built homes. (Table 1). From 1982 to 1986, the average cost per square foot of manufactured homes has been at least one-half that of site-built homes, while the cost per square foot of site-built homes has been steadily increasing. These figures are artificially low because the cost of the foundation and set-up was not included for manufactured homes.

TABLE 1

Cost and Size Comparison of Manufactured Homes and Site-Built Homes
1982 to 1986

<u>Manufactured Homes</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Average Sales Price ¹ (All Lengths & Widths)	\$19,700	\$21,000	\$21,500	\$21,800	\$22,400
Cost per Square Foot ¹	\$19.70	\$20.29	\$20.48	\$20.57	\$20.18
Average Square Footage	1,000	1,035	1,060	1,060	1,110
<u>Single Section</u>					
Average Sales Price ¹	\$17,200	\$17,600	\$17,700	\$17,800	\$17,800
Cost per Square Foot ¹	\$19.01	\$19.13	\$19.03	\$18.84	\$18.84
Average Square Footage	905	920	930	945	945
<u>Multi-section</u>					
Average Sales Price ¹	\$28,400	\$30,500	\$30,450	\$30,100	\$30,800
Cost per Square Foot ¹	\$21.52	\$22.59	\$22.30	\$21.97	\$22.08
Average Square Footage	1,320	1,350	1,364	1,370	1,395
<u>Site-Built Homes</u>					
Average Sales Price ²	\$83,900	\$89,800	\$97,600	\$100,800	\$111,900
Land Price	\$16,780	\$17,960	\$19,520	\$ 20,160	\$ 22,380
Price of Structure	\$67,120	\$71,840	\$78,080	\$ 80,640	\$ 89,520
Cost Per Square Foot ³	\$39.25	\$41.65	\$43.87	\$45.18	\$49.05
Average Square Footage (Living Space)	1,710	1,725	1,780	1,785	1,825

Source: Manufactured Housing Institute, "Quick Facts About the
Manufactured Housing Industry," (1987).

¹Includes furniture, draperies, carpeting and appliances but
excludes land as well as costs of steps, foundation siding, anchoring,
and any other applicable set-up charges (approximately 15% of home
cost).

²Excludes furnishings; includes land.

³Excludes furnishings, appliances, and land.

Another comparison was made by Clark County, Nevada with an informal survey of sales prices in 1982 for units with air conditioning.⁴ The results showed a cost advantage for manufactured housing computed on a per square foot basis, as follows:

-single-width units cost an average of \$19.36 per square foot;

-double-width units cost an average of \$26.95 per square foot;

-factory-built modular houses, built to Uniform Building Code (UBC) standards cost an average of \$28.84 per square foot; and

-site-built UBC houses cost an average of \$27.76 per square foot.

The survey was based on a small sample and did not include foundation costs for manufactured units. As shown, the greatest savings are for single-width units with multiple-section units ranging closer to site-built housing in terms of average cost.

Even with these limited comparisons, it can be seen that manufactured housing does represent a source of low-cost housing. However, costs can vary considerably depending on the size and quality of the unit, the degree of set-up required, and the cost of the lot where it is placed. In addition, comparisons of costs can vary depending on the

⁴Bruce Turner, "Nevada Planner Fears Loss of Local Control - Questions Figures," The Western Planner, Vol. 5, No. 9, (November 1984), p. 5.

distance from either the manufactured home dealership or the tradesmen required at a site-built location.

Another factor which effects the cost of manufactured housing is the availability of existing housing and whether it appreciates or depreciates in value. One of the arguments historically used against allowing manufactured homes into a community is the assumption that they depreciate. Now, however, the traditional approaches to determining value are being abandoned due to the mounting evidence that manufactured homes are appreciating in value. Appreciation can be attributed to several factors, including increase in average value, improved quality of construction, increase in demand while at the same time, a decrease in shipments, and the turnover rate for homes within an area.

A study completed in 1980 by Foremost Insurance Company showed that the average manufactured home appreciated in value by approximately five percent per year.⁵ The study involved a sample of about 500,000 manufactured homes to establish new home prices, and 12,000 homes to determine pre-owned home values. Appreciation rates were found to vary by width, location, and original quality. Tables 2 through 4 present Foremost's findings on appreciation for two widths of single-section homes and for double-section homes nationwide.

⁵Larry R. Bauer, "Up, Up and Away," reprint, Manufactured Housing Dealer, (December 1981).

TABLE 2

Sales Price Comparison and Appreciation of Manufactured Homes
12-Foot-Wide Single-Section Homes
1974 to 1980

NATIONWIDE SALES PRICE COMPARISON
FOR 12-FOOT-WIDE SINGLE-SECTION HOMES

Model* Year	New	1974	1975	1976	1977	1978	1979	1980
74	\$ 7,511	\$ 7,573	\$ 8,086	\$ 7,931	\$ 7,511	\$ 7,565	\$ 7,952	\$ 8,623
75	9,022	9,072	9,052	8,728	8,409	8,666	8,729	8,987
76	9,484		9,328	9,508	9,706	8,968	9,361	9,722
77	10,101			10,258	10,097	10,032	10,043	10,591
78	10,026				10,099	10,025	10,498	10,930
79	10,663					10,222	10,784	11,197
80	11,484						11,345	11,533

APPRECIATION OF 12-FOOT-WIDE SINGLE-SECTION HOMES NATIONWIDE

Model* Year	1974	1975	1976	1977	1978	1979	1980
74	101%	108%	107%	100%	101%	106%	115%
75	101	100	97	93	96	97	100
76		98	100	102	95	99	103
77			102	100	99	99	105
78				101	100	105	109
79					96	101	105
80						99	100

Source: Larry R. Bauer, "Up, Up and Away," reprint, Manufactured Housing Dealer, (December 1981).

*The manufactured home model year is similar to model year of the automobile industry in that production of the home actually begins in the previous year's last months, i.e., the 1980 model is introduced in late 1979. Consequently, the 1976 model shows a resale value in 1975, etc.

TABLE 3

**Sales Price Comparison and Appreciation of Manufactured Homes
14-Foot-Wide Single-Section Homes
1974 to 1980**

**NATIONWIDE SALES PRICE COMPARISON
FOR 14-FOOT-WIDE SINGLE-SECTION HOMES**

Model* Year	New	1974	1975	1976	1977	1978	1979	1980
74	\$ 9,847	\$ 9,913	\$10,247	\$ 9,687	\$ 9,577	\$ 9,665	\$10,248	\$11,331
75	11,033	10,919	11,051	11,216	10,862	10,695	11,141	11,733
76	11,870		11,223	11,920	12,363	11,478	11,952	12,223
77	13,035			12,532	13,102	13,409	13,219	13,624
78	14,433				13,918	14,494	14,925	14,752
79	15,775					15,216	15,903	16,452
80	17,186						16,792	17,322

APPRECIATION OF 14-FOOT-WIDE SINGLE-SECTION HOMES NATIONWIDE

Model* Year	1974	1975	1976	1977	1978	1979	1980
74	101%	104%	98%	97%	98%	104%	115%
75	99	100	102	99	97	101	106
76		95	100	104	97	101	103
77			96	101	103	101	105
78				96	100	103	102
79					97	101	104
80						98	101

Source: Larry R. Bauer, "Up, Up and Away," reprint, Manufactured Housing Dealer, (December 1981).

*The manufactured home model year is similar to model year of the automobile industry in that production of the home actually begins in the previous year's last months, i.e., the 1980 model is introduced in late 1979. Consequently, the 1976 model shows a resale value in 1975, etc.

TABLE 4

Sales Price Comparison and Appreciation of Manufactured Homes
Double-Section Homes
1974 to 1980

NATIONWIDE SALES PRICE COMPARISON
FOR DOUBLE-SECTION HOMES

Model* Year	New	1974	1975	1976	1977	1978	1979	1980
74	\$15,634	\$15,697	\$16,455	\$15,852	\$16,428	\$18,938	\$20,021	\$21,521
75	17,419	15,703	17,592	17,967	17,320	19,362	21,300	22,349
76	18,664		16,686	18,806	19,409	21,066	22,048	22,851
77	20,749			19,071	20,871	23,018	23,764	26,139
78	23,737				20,983	23,895	25,173	25,245
79	25,894					24,474	26,070	29,935
80	28,205						27,118	28,416

APPRECIATION OF DOUBLE-SECTION HOMES NATIONWIDE

Model* Year	1974	1975	1976	1977	1978	1979	1980
74	100%	105%	101%	105%	121%	128%	138%
75	90	101	103	99	111	122	128
76		89	101	104	113	118	122
77			92	101	111	115	126
78				88	101	106	106
79					95	101	104
80						96	101

Source: Larry R. Bauer, "Up, Up and Away," reprint, Manufactured Housing Dealer, (December 1981).

*The manufactured home model year is similar to model year of the automobile industry in that production of the home actually begins in the previous year's last months, i.e., the 1980 model is introduced in late 1979. Consequently, the 1976 model shows a resale value in 1975, etc.

Appreciation rates differ for various sections of the United States. Based on their sample, Foremost was able to categorize states into three groups according to the rate of appreciation:

Type I: Rapid appreciation - includes many of the Western States as well as Alaska, Florida, and New Jersey;

Type II: Steady increase in appreciation - includes the rest of the Western States, Plains States and the Midwest;

Type III: Slowly appreciating - includes the Northwestern, Eastern, and Southern States.

Montana falls into the fastest growing category of "steady increase in appreciation."

It should be noted that between 1974 and 1980, the rate of inflation increased by an average of approximately nine percent per year. The study did not take this into account thereby showing appreciation in average manufactured home values when in fact values may have been declining.

As previously mentioned, appreciation rates are influenced by the demand for versus the shipments of manufactured homes. Shipments of manufactured housing units fluctuate from year to year depending on a variety of economic and market conditions. Table 5 presents the annual manufacturers' shipments to retailers in the United States from 1970 to 1986. These figures show a fairly constant shipment rate over the last 10 years for the entire country. Production of manufactured homes peaked in 1972 at almost 576,000 units, and has averaged approximately 264,000 units

per year over the last ten years. In addition, the percent of single-section compared to multi-section homes has also remained fairly constant with a slight increase in recent years of multi-section homes. (Table 6). Data for Montana indicates a downward trend in the number of shipments from 1977 to 1980. (Table 7). At the same time, the percentage of multi-section units has grown.

TABLE 5

**Annual Manufactured Home Shipments
1970 to 1986**

<u>Year</u>	<u>Manufacturers' Shipments to Retailers in U.S.</u>
1986	244,660
1985	283,489
1984	294,993
1983	295,079
1982	238,808
1981	240,907
1980	221,616
1979	277,372
1978	275,871
1977	267,289
1976	246,120
1975	212,690
1974	329,300
1973	566,920
1972	575,940
1971	496,570
1970	401,190

Source: Manufactured Housing Institute, "Quick Facts About the Manufactured Housing Industry", (1984 and 1987).

TABLE 6

**Manufactured Home Shipments
Single-Section Compared to Multi-Section
1980 to 1986**

<u>Manufactured Home</u>	<u>Length</u>	<u>Width</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Single-Sec.	48'-76'	12'-14'	71%	76%	79%	73%	71%	67%	63%
Multi-Sec.	36'-70'	24'-28'	29%	24%	21%	27%	29%	33%	37%
			100%	100%	100%	100%	100%	100%	100%

Source: Manufactured Housing Institute, "Quick Facts About the Manufactured Housing Industry," (1987).

TABLE 7

**Manufactured Home Shipments to Montana
Single-Section Compared to Multi-Section
1977 to 1980**

<u>Date</u>	<u>Single-Section</u>	<u>Percent of Total</u>	<u>Multi-Section</u>	<u>Percent of Total</u>	<u>Total</u>
1977	2,812	85%	497	15%	3,309
1978	2,426	82%	533	18%	2,959
1979	1,871	82%	418	18%	2,289
1980	1,177	80%	286	20%	1,463

Source: Thomas E. Nutt-Powell, Manufactured Homes: Making Sense of a Housing Opportunity, (Boston, Massachusetts: Auburn House Printing Company, 1982), p. 81.

A second method of viewing the number of shipments is to compare them to sales of site-built homes. Table 8 shows a comparison of manufactured home shipments to sales of new single-family site-built homes. The table includes comparisons based on all prices and on homes under \$50,000. From 1979 to 1983, manufactured homes comprised an average of 32 percent of new homes each year, and an average of 71 percent of all new homes under \$50,000. Of particular note is the 22 percent increase from 1979 to 1983 in manufactured homes shipped compared to site-built homes sold costing less than \$50,000. These figures indicate that manufactured housing is an important segment of the lower-cost housing market.

TABLE 8

**Manufactured Home Shipments Compared to
Sales of Single-Family Site-Built Homes
1979 to 1983**

BASED ON ALL PRICES

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Site-Built Homes* Sold					
(In Thousands)	709	545	436	412	623
Percent of Total	72%	71%	64%	63%	68%
Manufactured Homes Shipped					
(In Thousands)	277	222	241	239	295
Percent of Total	28%	29%	36%	37%	32%
Total New Homes					
(In Thousands)	986	767	677	651	918

BASED ON UNDER \$50,000

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Site-Built Homes* Sold					
(In Thousands)	184	137	88	67	65
Percent of Total	40%	38%	27%	22%	18%
Manufactured Homes Shipped					
(In Thousands)	277	222	241	239	295
Percent of Total	60%	62%	73%	78%	82%
Total New Homes					
(In Thousands)	461	359	329	305	360

Source: Manufactured Housing Institute: "Quick Facts About the
Manufactured Housing Industry", (1984).

*U.S. Department of Commerce, Bureau of Census Data Conventional
Homes, C25 Construction Reports.

While the supply component of the manufactured housing industry has developed over the years, the demand for manufactured housing has also grown. As previously shown, the popularity of manufactured housing has evolved as a alternative form of single-family housing. The demand for manufactured housing is the result of various demographic and socioeconomic factors.

Until the 1970's the manufactured housing industry was readily able to distinguish its share of the housing market. Purchasers tended to be young couples in their first purchased residence or older individuals/couples in a retirement residence. Categorized by lower incomes, this market segment has typically purchased single-section units. This segment continues to be a major portion of the manufactured housing buying population. Traditionally there have been two other identifiable groups which purchase manufactured housing. Construction workers who are concentrated in an area do not always have an adequate housing market to supply their temporary needs. In addition, military personnel often prefer transportable housing because of frequent moves and inadequate housing facilities.

In the 1970's this began to change as the option of multi-section units became available and the general size of all units increased. The number of households in the middle age group that chose to purchase manufactured housing

increased. This group tends to have a higher income, a larger family size, and is more likely to own the property on which the manufactured home is placed.

The largest segment of the manufactured housing is heads of households under 35 years of age. This group includes those individuals in their family forming years, recently married and/or with relatively few children of school age. In addition, this group is usually at the lower end of their eventual earning potential and are highly mobile. Individuals in this stage of their life cycle find mobile homes or rental housing more suited to their requirements because of their mobility and/or their inability to purchase conventional housing. Between 1960 and 1980, this group increased in proportion to the rest of the general population from 26.4 percent to 31.0 percent. (Table 9).

Another group which tends to find manufactured housing more suited to their needs are those individuals over the age of 55. These individuals, with contracting or contracted families, often seek a smaller and a sometimes less conventional type of single-family dwelling. The number of individuals in this age group has also grown in proportion to other age groups, increasing from 28.9 percent in 1960 to 36.0 percent in 1980. (Table 9).

The combined proportion of these two groups has steadily increased, from 55.3 percent in 1960 to 67.0

percent in 1980. Correspondingly, the prime customers of conventional single-family housing, those individuals between 35 and 54 years of age, has dropped from 45.7 percent in 1960 to 33.0 percent in 1980. (Table 9).

TABLE 9

Population Characteristics
Age of Head of Household
1960 to 1980
(in thousands)

	<u>1960</u>		<u>1970</u>		<u>1980</u>	
Less than 35	11,488	26.4%	16,277	25.6%	25,060	31.0%
35 - 54	20,545	45.7%	24,148	38.0%	26,578	33.0%
55 and older	13,029	28.9%	23,088	36.4%	28,751	36.0%

Sources: U.S. Department of Commerce, Bureau of Census, Statistical Abstract of the United States: 1961, Table 34, p. 39.

U.S. Department of Commerce, Bureau of Census, Census of Population: 1970, General Population Characteristics, United States Summary, Table 54, p. 1-278.

U.S. Department of Commerce, Bureau of Census, Census of Population: 1980, Vol. 1, Chapter B, General Population Characteristics, United States Summary, Table 46, p. 1-44.

Based on recent industry data, the profile of the manufactured housing consumer is beginning to include higher income families with the head of the household in the middle-age range. This has come about as manufactured homes have increased in size and improved in quality.

Table 10 presents some additional characteristics concerning mobile homes. Mobile homes are generally located in rural areas and are owned rather than rented. The site where the mobile home is placed is predominately rented as compared to owned. The majority of mobile homes are individually sited instead of clustered in groups, such as in mobile home parks. Of the mobile homes owned, the majority have been purchased used. Last of all, the income level of mobile home occupants tends to be low. More than one-half of the renter occupied mobile home occupants have an income of less than \$10,000. Incomes less than \$15,000 are reported for one-half of owner occupied mobile home occupants.

TABLE 10
Mobile Home Characteristics
1983

Total Occupied Mobile Homes	3,999,000	
Location		
Urban		26%
Rural		74%
Siting		
Groups of six or more		46%
Individual		54%
Land Ownership		
Site owned		30%
Site rented		70%
Home Ownership		
Home owned		80%
Home rented		20%
Home Acquisition (owned homes)		
New		47%
Used		53%
<u>Income of</u> <u>Household Heads</u>	<u>Owner</u> <u>Occupied</u>	<u>Renter</u> <u>Occupied</u>
Less than \$10,000	33%	56%
\$10,000 - 14,999	20%	19%
\$15,000 - 19,999	16%	13%
\$20,000 - 24,999	11%	5%
\$25,000 - 29,999	8%	3%
\$30,000 +	12%	4%
Median	\$14,300	\$ 8,900

Sources: U.S. Department of Commerce, Bureau of the Census, General Housing Characteristics for the United States and Regions, Annual Housing Survey: 1983, Part A, Table A-3, p. A-11.

U.S. Department of Commerce, Bureau of the Census, Urban and Rural Housing Characteristics for the United States and Regions, Annual Housing Survey: 1983, Part E, Table A-6, p. E-22.

Regulation of Manufactured Housing

Through the years, the reaction of most local regulatory agencies concerning manufactured housing has been negative. Manufactured housing is frequently either prohibited or forced into undesirable areas through zoning regulations. The rationale for this action has been to protect the public health, safety and welfare. With the various changes in the manufactured housing industry in recent years, arbitrary exclusion and controls are no longer sound policy and are no longer supported by the courts.

This section examines the historical control of manufactured housing primarily through the use of zoning. Legal opinions and court cases which have brought about a change in the legal rights of owners of manufactured homes are reviewed. A final emphasis is on legal decisions from Montana.

The first example of controlling the use of land through zoning took place in San Francisco in the late 1800's. Zoning was not motivated by the need to protect property rights but rather by the desire to exclude ethnic minorities.⁶ It was not until 1913, in New York City, that property rights began to be the primary motivation for zoning.⁷ The city was divided into three types of

⁶Barbier v. Connolly, 113 U.S. 27 (1885); and Soon Hung v. Crowley, 113 U.S. 703 (1885).

⁷Welch v. Swasey, 214 U.S. 91 (1909).

districts: residential, business, and unrestricted. New York's comprehensive ordinance, in force until 1961, served as a model for subsequent zoning ordinances across the country.

In the 1920's, the protection of property values became the primary reason for zoning. By 1931, more than 1,000 municipalities, authorized by state legislation, had utilized their police powers to zone.⁸ In 1926, the concept of zoning was declared constitutional by the United States Supreme Court in the case of Village of Euclid v. Ambler Realty.⁹ The decision established the constitutionality of comprehensive zoning unless a given ordinance was found to be "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals or general welfare."

While zoning regulations vary considerably, they usually include the following aspects:

- a designation of permitted uses (i.e. residential, commercial, or industrial);
- a limitation on population density (minimum lot size requirements); and
- the regulation of building bulk (limitations on building height and lot coverage).

⁸Douglas Commission Report, Building the American City, U.S. National Commission on Urban Problems: Report to Congress and the President of the U.S., (Washington, D.C.: Government Printing Office, 1969), p. 200.

⁹Village of Euclid v. Ambler Realty, 276 U.S. 365 (1926).

Traditional zoning is based on a hierarchy of land use categories with the single-family residential district at the top. Uses which are considered mutually incompatible are, therefore, separated. This form of zoning is referred to as Euclidean zoning based on the case of *Euclid v. Ambler*. The court regarded the encroachment of industry and apartments into a single-family zone as a public nuisance. The decision established the right to create and maintain residential neighborhoods and the insulation of the single-family district. Through this concept, manufactured housing has frequently been excluded from traditional single-family neighborhoods.

With the initial use of house trailers and the later forms of mobile homes, regulatory agencies either prohibited their use or forced them into areas where no one else wanted to live. In comparison to conventional housing this type of housing was viewed as unattractive and unsafe, and property owners feared depreciation of their land values. Further, the exile of mobile homes to industrial or commercial areas continued to foster their negative image.

Despite progressive changes in the form and appearance of manufactured housing through the years, the position of regulatory agencies has remained the same. Mobile homes are commonly prohibited from locating in any area except in a mobile home park, or undue restrictions are placed on where they can be located. As a result, mobile homes are

typically excluded from most, if not all, single-family residential districts.

Over the years, courts have interpreted the law to support both sides of the manufactured housing argument. Earlier decisions usually upheld the regulations intended to exclude manufactured housing, but in recent years, the courts have reversed their position, often deciding in favor of this form of housing.

Historically, manufactured housing was totally excluded in many communities by statute, regulation, or judicial decision. Such was the case in 1959 when the New Jersey Supreme Court determined that the use of trailers for residential purposes was detrimental to the integrity of a residential area.¹⁰ Many similar judicial decisions excluding mobile homes were based on the following assumptions:

1. Materials utilized in mobile homes were unaesthetic and incompatible with conventional housing;
2. Mobile homes have inherent health and safety problems;
3. Mobile homes place a financial strain upon municipal budgets and services; and
4. Mobile homes attract undesirable types of people.

The historical grounds for exclusion lack any foundation

¹⁰Napierkowski v. Township of Gloucester, 29 N.J. 481, 150 A. 2d 481 (1950).

given the kind of manufactured housing currently being produced.

The first assumption traditionally used against permitting manufactured housing is the materials used are unaesthetic and incompatible with conventional housing. However, a major factor promoting the acceptance of manufactured homes is their increasing resemblance in materials and structural design to conventional homes. Currently, the materials used in manufactured housing are very compatible with, if not identical to, materials used for site-built housing. The use of sloped roofs and shingled or wood siding achieves a visual effect very similar to that of conventional homes. This is especially true as an increasing number of site-built homes have metal siding applied to their exteriors.

A second assumption frequently stated regarding manufactured housing was inherent health and safety problems. These have all but been eliminated by the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5401) adopted in 1976.¹¹ The U.S. Department of Housing and Urban Development (HUD) was given the responsibility to establish and enforce manufactured housing standards, therefore, the standards are also known as the "HUD Codes." These standards were developed for

¹¹Douglas W. Kmiec, "Manufactured Home Siting: A Statutory and Judicial Overview," Zoning and Planning Law Report, Vol. 6, No. 3, (March 1983), p. 106.

planning, design, fire safety, body and frame construction, energy conservation or thermal protection, plumbing, heating/cooling and electrical systems, and transportation of manufactured units.

The standards have been especially effective in terms of fire safety. Prior to the HUD Codes, the injury rate and the extent of property damage per incident were considerably higher in manufactured housing. As shown in a 1978 study through the Manufactured Housing Institute, the fire safety record of manufactured housing built after 1976 is superior to site built homes.¹² (Table 11). Both the number of incidents and rate of fatalities have dropped considerably since the HUD Codes were adopted. Safety, in general, has improved, as shown in research underwritten by HUD. Studies have shown that the HUD Codes have significantly reduced the frequency, prevalence and incidence of injury or property loss.

¹²Nutt-Powell, p. 26.

TABLE 11

Comparison of Fire Incidence and Fatality Rates
Between
Site-Built Homes and Manufactured Homes

	<u>Fire Incidents per 100,000 Houses</u>	<u>Fatalities per 100,000 Houses</u>	<u>Fatalities per Million Population</u>
Site Built Homes (all)	534.50	4.20	13.50
Manufactured Homes:			
All	534.10	12.42	49.90
Pre-1976	563.10	14.10	56.60
1976-1978	378.90	3.44	13.80

Source: Howard Bates, Comparison of Fire Risk in Mobile Homes and Site-Built Homes, (Arlington, Virginia: Manufactured Housing Institute, 1980).

Note: Rates are based on National Fire Information Reporting Service data for 1978.

Another assumption about manufactured housing is the burden on municipal budgets and services in the form of overtaxing municipal facilities such as transportation, water and sewage systems, schools, parks, and other public institutions. The negative effect on the tax base is unfounded if manufactured homes are taxed as real property. In fact, the majority of the states do treat manufactured housing as real property if it is attached to a permanent foundation, intended to be occupied as a permanent residence, is located on owner-occupied land, or some combination of these factors. Furthermore, properly

regulated housing, through comprehensive planning and zoning regulations, can insure undue concentration of population and subsequent strain on the community's infrastructure.

The last assumption regarding manufactured housing is that it attracts undesirable types of people. This argument may have been valid in the past given the transient use of mobile homes. However in recent years, manufactured housing has become a more permanent and legitimate type of housing that no longer carries the stigma once associated with house trailers.

Decisions supporting the exclusion of mobile homes were frequently based upon the aforementioned assumptions. In the case of *Town of Manchester v. Phillips*, in 1962, the court upheld the exclusion of mobile homes in residential neighborhoods as a reasonable exercise of police powers on grounds of aesthetics and preservation of property values.¹³ Similarly, where regulation restricts locating only in mobile home parks, it has been held that public welfare is being protected as it relates to sanitary considerations.¹⁴

Another line of defense against mobile homes has been that they have characteristics sufficiently different from conventional housing so as to justify different treatment

¹³*Town of Manchester v. Phillips*, 343 Mass. 591, 180 N.E. 2d 333 (1962).

¹⁴*People v. Clute*, 47 Misc. 2d 1005, 263 N.Y.S. 2d 826 (1965), *aff'd* 18 N.Y. 2d 999, 278 N.Y.S. 2d 231, 224 N.E. 2d 734 (1966).

under the law. Such was the case of Mobile Home Owners Protection Association v. Town of Chatham where the argument of reasonableness of differentiation has been upheld.¹⁵ In these types of cases, proponents of manufactured housing are contesting the notion that this form of housing should be viewed differently from any other conventional form of housing. Even when the installation of, or improvements to, a mobile home have been of a substantial type, it has been held that the characteristic nature of the mobile home has not changed. The courts have not been swayed by improvements such as additions of basements, foundations and extra rooms or the installation of V-shaped roofs.¹⁶

The assumptions used in the past to prohibit manufactured housing are no longer valid. As such, a total ban on manufactured housing has simply been held to be unreasonable, arbitrary and beyond delegated zoning powers, as presented in a North Carolina court case, as recently as 1970.¹⁷

In the landmark case of Bristow v. City of Woodhaven, exclusionary zoning in regards to mobile homes was

¹⁵Mobile Home Owners Protection Association v. Town of Chatham, 305 N.Y.S. 2d 334 (1969).

¹⁶Courtland Township v. Cole, 66 Mich. App. 474, 239 N.W. 2d 630 (1976); and Bogart v. Woodburn, 40 A.D. 2d 888, 337 N.Y.S. 2d 135 (3d Dept. 1972).

¹⁷Town of Conover v. Jolly, 277 N.C. 439, 177 S.E. 2d 879 (1970).

explicitly denounced by the Michigan Courts.¹⁸ The court cited the need for decent, suitable housing for all citizens and the necessity of evaluating the public welfare in terms of regional needs, rather than municipal needs.

Not all of the exclusionary zoning cases have dealt specifically with mobile homes, but their implications for mobile homes are clear based on the fact that manufactured housing offers a low cost alternative to conventional single-family housing. In the case of Southern Burlington N.A.A.C.P. v. Township of Mount Laurel, the court unanimously struck down exclusionary zoning.¹⁹ The 1975 decision by the New Jersey Supreme Court required local governments "to adopt land use regulations that permit a realistic possibility for a fair share of housing opportunities for low and moderate income households, based on the regional need for such housing."²⁰ The concurring opinion by Justice Pashman declared that the prohibition of mobile homes is an "inherently exclusionary" zoning device. Such tactics are unsupportive of the general welfare, and must be measured not only in terms of the particular

¹⁸Bristow v. City of Woodhaven, 35 Mich. App. 205, 192 N.W. 2d 322 (1971).

¹⁹Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 161 N.J. Super. 317, 391 A. 2d 935 (1978).

²⁰Herbert M. Franklin, "The Most Important Zoning Opinion Since Euclid," Planning, Vol. 49, No. 10, (November 1983) p. 10.

community's needs, but also in terms of the needs of the entire surrounding region.

During the 1970's, the courts frequently decided more in favor of manufactured housing. In *Kyritsis v. Fenney*, the court differentiated between modular homes and mobile homes.²¹ The court, citing the indistinguishable appearance of modular homes in comparison to conventionally built single-family homes, overruled the zoning regulations which restricted modular homes to mobile home parks.

In a related case, *Robinson Township v. Knoll*, the court determined that there is a duty to accommodate manufactured housing within the community.²² Noting the improvements in size, safety, and appearance of manufactured housing currently being produced, the court stated that there can be no per se exclusion of mobile homes from all areas not designated as mobile home parks. The court went further to include that a given mobile home may be excluded if "it fails to satisfy standards designed to assure that the home will compare favorable with other housing that would be allowed on that site and not merely because it is a mobile home."

In a similar case, the Federal District Court in Louisiana declared an ordinance prohibiting mobile homes

²¹*Kyritsis v. Fenney*, 66 Misc. 2d 329, 320 N.Y.S. 2d 702 (1977).

²²*Robinson Township v. Knoll*, 410 Mich. 293, 302 N.W. 2d 146 (1981).

from suburban residential zones unconstitutional.²³ The court held that the ordinance was an arbitrary and unreasonable exercise of police power because it did not serve any health or safety purpose. The mobile home was deemed unacceptable because it was transportable on its own axles. The court felt this to be arbitrary and unreasonable given that structurally inferior and less aesthetically pleasing structures could be constructed if site-built or transported to the site by truck.

A different exclusionary tactic has been based on the requirement to meet local building codes. This type of regulatory interference was struck down in the decision of *Snohomish County v. Thompson*.²⁴ The court concluded that state codes concerning construction standards for mobile homes specifically were exclusive and in lieu of any local building code requirements.

The final case to be considered is also the most important, especially in regards to manufactured housing in Montana. In 1982, the Montana Supreme Court was faced with the issue of whether or not the zoning restrictions on

²³*Bourgeois v. Parish of Tammany*, 628 F. Supp. 159 (E.D. La. 1986).

²⁴*Snohomish County v. Thompson*, 19 Wash. App. 768, 577 P. 2d 627 (1978).

mobile homes in Butte were exclusionary and, therefore, unconstitutional in *Martz v. Butte-Silver Bow Government*.²⁵

In 1979, the Martz were denied a building permit to place a mobile home (built to HUD Codes) in an R-2 residential zone. The zoning ordinance permitted mobile homes on private lots in areas zoned R-4 and R-4S and mobile home parks only in areas zoned R-4. The minimum lot size in areas R-4S was one acre. Residential areas accounted for 95 percent of the total area zoned. Of the residential area, 2.2 percent was zoned R-4 and 4.5 percent was zoned R-4S. When considering just vacant land, only 0.9 percent was zoned R-4 and 4.2 percent was zoned R-4S.

The District Court concluded "...that a municipality must insure that a fair share of housing is within the reach of persons of low- and moderate-incomes; where a zoning ordinance limits mobile home parks to less than one percent of the land zoned, the zoning is tantamount to an exclusionary ban on mobile home parks and is unconstitutional;" and pointed out that "a zoning ordinance which permits mobile homes on lots having a large minimum size may be exclusionary."²⁶ The court held that the practical effect of the one acre minimum lot size was to exclude low

²⁵*Martz v. Butte-Silver Bow Government*, 196 Mont. 348, 641 P. 2d 426 (1982).

²⁶*Martz v. Butte-Silver Bow Government*, 39 St. Rep. 149, p. 153.

and moderate income families desiring to live in mobile homes from locating in the Butte-Silver Bow area.

A significant point in this case was the defendants contention that if mobile homes can meet Uniform Building Code (UBC) standards, they can then be located in any residential zone. The defendants also stated that their requirements were substantiated because mobile homes which fall below UBC standards may pose a real and substantial threat to health and safety. All mobile homes constructed after June 15, 1976 must conform to HUD standards.

On appeal, the Montana Supreme Court held that "if mobile homes can be made to conform to UBC standards, then there is no basis for the exclusionary argument."²⁷ The court remanded the case back to the District Court to compare the two building standards and decide on whether or not mobile homes can meet UBC standards.

The District Court found that all mobile homes constructed after 1976 must meet HUD standards, are not capable of meeting UBC standards, and UBC standards are not a valid criteria. The court concluded that mobile homes built to HUD standards are comparable and equal to conventional housing built to UBC standards in terms of the public health and safety. Expert witnesses testified that HUD standards for the construction, design, and performance

²⁷Jean E. Wilcox, "Local Officials and Planners Question Impacts and Assumptions," The Western Planner, Vol. 5, No. 9, (November 1984), p. 5.

of a mobile home reasonably meets the needs of the public, including the need for quality, durability, and safety.

The District Court concluded that the requirement that mobile homes must be built to UBC standards has no substantial bearing on and does not promote the public health, welfare, and safety of residents of Butte-Silver Bow. In addition, the ordinance does not constitute a valid exercise of police power in that it is unreasonable, arbitrary, and capricious, and is, therefore, unconstitutional, as it applies to where mobile homes can be located. The court also noted once again that the failure to provide a balanced and integrated community amounts to exclusionary zoning and is, therefore, unconstitutional.

CHAPTER III

MISSOULA'S EFFORTS TO REGULATE MANUFACTURED HOUSING

The current situation in Missoula, Montana is similar to many other jurisdictions around the country. Missoula's zoning ordinances either completely exclude or severely limit the placement of manufactured housing. This section of the paper will look at the ordinances governing zoning in Missoula and the problems inherent in these regulations. All of the applicable zoning regulations pertaining to manufactured housing will be reviewed, although the final emphasis will be on the siting of individual units in the urban area but outside the city limits.

For more than three years, I worked for the Missoula Planning Office, primarily in the regulatory division, with the majority of my experience in county zoning. During the time period June 1982 to September 1985, I was able to experience first hand the problems of people who wanted to live in manufactured housing. These people were often frustrated by the regulations which tended to exclude them from the majority of the urban single-family neighborhoods.

City of Missoula

The Missoula City Ordinance completely excludes the siting of an individual mobile homes and only permits mobile home parks in areas zoned R-VI Mobile Home Park and

Multiple-Dwelling Residential District.²⁸ The only exception to this is for mobile homes that were in place prior to the passage of the zoning ordinance, called a nonconforming use. Another mobile home may replace these nonconforming dwellings as long as the replacement mobile home is no larger than the original mobile home and meets all of the setback requirements of the zone or does not infringe upon the setbacks of the original mobile home.²⁹ In addition, the city ordinance does not define mobile home or modular dwellings, although the city does permit modular dwellings in residentially zoned areas. Modular dwellings must meet UBC standards or the building codes of the Council of American Building Officials (CABO).

Missoula County

The situation in the county is somewhat more complicated than in the city. There is a zoning ordinance that regulates the urban area outside the city limits, individual zoning districts scattered throughout the county, each with their own regulations, and unzoned areas. The majority of the rural portion of the county is unzoned and has no zoning restrictions on the location or type of dwelling.

²⁸Missoula City Zoning Ordinance, Title 19, Chapter 19.46.

²⁹Ibid, Chapter 19.62.030.

The Missoula County Zoning Resolution, adopted in 1976, permits individually sited mobile homes in residential areas, but restricts them with large lot and setback requirements. The ordinance permits "Mobile homes on lots five (5) acres or larger and minimum yard setbacks of fifty (50) feet" in each of the residential districts.³⁰

Even the C-A2 Residential district, with the lowest density requirement of one dwelling per ten acres, still requires five acre lots for mobile homes. Single-family dwellings have no lot size or rear yard setback requirements. This type of discrimination is evident in all of the residential districts up to and including the C-R2 Residential district, which has the highest density allowance in the single-family districts.

The C-R2 Residential district has a maximum residential density requirement of sixteen dwellings per one acre, a minimum lot area requirement of 5,400 square feet and setback requirements of 25 feet in the front and rear and five feet on the side. Clearly the ordinance attempts to exclude mobile homes from the urban area, especially in the higher density residential districts. As with the city, there are exceptions for nonconforming mobile homes that were in place prior to the passage of the ordinance.

³⁰Missoula County Zoning Resolution, No. 76-113, pp. II-7 to II-22.

In addition, mobile home parks are allowed in districts zoned MH/Mobile Home.³¹ This is an overlay district that can be created in any residential (R) district. The minimum size of a mobile home park is five acres if owner-occupied and managed, and ten acres for all other parks. Density requirements are the same as those of the original district but has a maximum density requirement of seven dwellings per acre.

There are also individual zoning districts, each with their own regulations that are not governed by the Missoula County Zoning Resolution. Each of these districts has unique regulations which are drafted by the property owners and as such can vary considerably. The majority of these regulations either exclude mobile homes or place restrictions on their location.

Analysis of the Problem in Missoula

The city ordinance is by far the most exclusionary in that it does not permit mobile homes to be located anywhere in the corporate city limits except within a licensed mobile home park. There is clearly a problem because the city does not permit the siting of individual mobile homes on single lots. In addition, the city has zoned only 0.83% of the total city acreage as R-VI. As pointed out in the decision of *Martz v. Butte-Silver Bow Government*, zoning less than

³¹Ibid, pp. V-5 to V-6.

one percent of the land for mobile home parks is equivalent to an exclusionary ban on mobile home parks and is unconstitutional.

While the county ordinance permits individual mobile homes, it does place excessive constraints on where they can be located. This, in effect, is exclusionary. It should be noted that the county does differentiate between mobile homes and modular dwellings. The definition of a mobile home is...

"Mobile Home - Any residential structure larger than two hundred fifty-six square feet in area which is either wholly or in substantial part manufactured at an off-site location: any movable or portable residential structure over thirty-two feet in length and over eight feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one or more components that can be retracted for towing purposes and subsequently expands for additional capacity, or of two or more units separately towable, but designed to be joined into one integral unit, as well as a portable residential structure composed of a single unit. Mobile homes shall meet structural codes (American National Standards Institute) and fire codes (National Fire Protection Association 501) as adopted by the State of Montana."³²

On the other hand, modular dwellings are considered to be the same as single-family dwellings when considering where and how they can be located. The definition of a modular dwelling is...

³²Ibid, p. I-6.

"Modular Dwelling - A detached one-family dwelling with all of the following design characteristics:

- a. For long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and,
- b. Transportable on temporary wheels, a flat bed, or other type of trailer; and,
- c. Without a permanent frame or under carriage so as to be placed on a permanent foundation necessary for occupancy; and,
- d. Factory construction meets or exceeds uniform building codes; and,
- e. Eligible for long-term amortized mortgage financing of fifteen years or more."³³

In 1984, the Missoula County Attorney questioned the legality of the Missoula County Zoning Resolution given the decision in *Martz v. Butte-Silver Bow Government*. The County Attorney concluded that the county may not exclude mobile homes, manufactured after 1976, from single-family districts as long as they can meet the setback and lot size requirements which are imposed on conventional single-family houses.³⁴ The County Attorney did go on to say that the county may adopt additional zoning requirements concerning the size, appearance, quality of manufacture, and manner of on-site installation.

³³Ibid, pp. I-6 to I-7.

³⁴Robert L. Deschamps III, County Attorney Opinion No. 84-21, Missoula County Attorney's Office (October 12, 1984), p. 1.

With this opinion, the county began to permit mobile homes, built after 1976, to be sited under the same regulations as those for a site-built single-family dwelling. However there has not been any change to the Missoula County Zoning Resolution, and therefore, the county zoning administrator is not adhering to the stated ordinance. In addition, there has been no change of procedure for mobile homes built prior to the adoption of the HUD Codes as this question was not addressed in Martz v. Butte-Silver Bow.

There are also problems with trying to regulate the replacement of nonconforming mobile homes. Often the replacement involves a new owner who has no information concerning the replaced mobile home. Therefore, the zoning administrator is not in a position to make an informed decision about whether the replacement mobile home conforms to the ordinance, or at least does not infringe further upon the setbacks of the original mobile home.

The third major problem is the administration of zoning districts. While new districts are not encouraged, they are permitted and there are still numerous existing ones to enforce. Many of these zoning districts are exclusionary and they are being enforced as written. The zoning administrator makes no distinction between pre-1976 and HUD manufactured mobile homes, and excludes all mobile homes in zoning districts where they are prohibited. However,

because these regulations are approved by the governing body, the county is still responsible for their inadequacies.

CHAPTER IV
APPROACHES AND ALTERNATIVES TO ZONING
FOR MANUFACTURED HOUSING

While numerous jurisdictions reflect responsible planning practices and reasonable controls and standards, regulating manufactured housing, there is still substantial evidence of regulatory abuse and negligence. As shown, the regulating ordinances in Missoula, Montana contain exclusionary controls and are in need of revision. This section concentrates on solutions to the problems in Missoula. Regulatory examples from major cities in Montana are reviewed to see how they treat manufactured housing. Model zoning regulations are compared to standards. From this review, a variety of possible solutions are presented that can be used to resolve the problems in Missoula. Finally, a recommendation of a preferred solution that could be used in revising Missoula's zoning ordinances is presented.

Examples of regulatory abuse and negligence are numerous. In 1970, a survey was made of regulatory practices concerning manufactured housing.³⁵ In this survey, 28 percent of the jurisdictions would not allow new

³⁵Frederick H. Bair, Jr., Modular Housing, Including Mobile Homes: A Survey of Regulatory Practices and Planners Opinions, Planning Advisory Service, No. 265, (Chicago, Illinois: American Society of Planning Officials, January 1971), pp. 7-9.

mobile home parks. Out of the 206 jurisdictions that responded and allowed new parks, 38 permitted new parks in industrial areas, while 13 would only allow new parks in industrial areas. Similarly, 78 permitted new parks in commercial areas and were the only location permitted in fourteen. No distinction was made between mobile homes and travel trailers in 45 of the jurisdictions. The survey also indicated negligence in revising mobile home park regulations and the standards used in parks.

Regulatory restrictions were also evident with individually located mobile homes.³⁶ Only 38 percent of the communities permitted mobile homes on individual lots outside of mobile home developments. In addition, less than one percent allowed mobile homes as a permitted use in residential districts. Overall, the survey showed that there were numerous instances of regulatory abuse and negligence with an obvious need for remedial action to update and correct regulations.

By 1985 the situation changed, suggesting a trend toward greater acceptance of manufactured housing. A new survey, conducted by the American Planning Association (APA), showed that 60 percent of the jurisdictions permit manufactured housing on individual lots in residential

³⁶ Ibid. pp. 18-19.

districts.³⁷ In addition, 52 percent of the communities allow manufactured housing, built to HUD Code, as a permitted in residential neighborhoods. This survey indicated that regulations are being revised to correct exclusionary controls.

Zoning Regulations Used In Montana

In Montana, manufactured housing is treated with considerable difference from jurisdiction to jurisdiction. Five major cities in Montana were surveyed, including Billings, Bozeman, Butte, Great Falls, and Helena. Each jurisdiction was asked how manufactured was regulated both within the city and in the surrounding county. Responses varied considerably. At one end of the spectrum, manufactured housing was allowed in most residential zones, and in some cases, with additional appearance standards. At the other end, manufactured housing was so limited it could be considered exclusionary.

The city of Billings, and its adjacent areas, is the most restrictive of any jurisdiction.³⁸ In the city, all manufactured housing, whether produced prior to or after 1976, is permitted only in R-MH (manufactured house

³⁷Welford Sanders, Regulating Manufactured Housing, Planning Advisory Service, No. 398, (Chicago, Illinois: American Planning Association, December 1986), p. 3.

³⁸Billings City Zoning Ordinance and Yellowstone County Zoning Plan.

district) or PUD/MH (planned unit developments for manufactured housing). There are no additional standards used to regulate the appearance of manufactured housing. Modular dwellings, built to UBC standards, are permitted in any residential zone.

The surrounding areas outside of the city of Billings are somewhat less restrictive. Zoned areas can be found within 4 1/2 miles of the city limits. Outside of this perimeter there is no zoning and no zoning restrictions. Where manufactured housing is permitted, there is once again no distinction between manufactured housing built prior to or after 1976. All manufactured housing is treated the same. Manufactured housing is permitted in R-MH and is a special exception in four other residential districts. Mobile home parks are allowed in R-MH and a special exception in one other residential district. Special exception uses require approval through additional regulatory processes. As in the city, there are no additional appearance standards.

The rest of the jurisdictions were much less restrictive. In these cities, manufactured housing built after 1976 was generally permitted in most residential zones, and in many cases, additional standards for appearance are used to enhance their suitability in residential neighborhoods. Tables 12 and 13 show how each of these jurisdictions regulate manufactured housing. Not

shown in the tables are modular dwellings. These are built to UBC standards and are permitted in all residential zones in all of the jurisdictions. They are treated the same as site-built homes.

TABLE 12

Zoning Restrictions in Montana
Permitted Locations for Manufactured Housing

<u>City/County</u>	<u>Mobile Home (MH/PUD) District</u>	<u>Other Residential Districts¹</u>	<u>All Residential Districts</u>	<u>Other Zoning Districts¹</u>
Billings (City)				
Mobile homes	PU			
Manufactured housing (HUD)	PU			
Mobile home parks	PU			
Billings (Co.)				
Mobile homes	PU	SE (4)		
Manufactured housing (HUD)	PU	SE (4)		
Mobile home parks	PU	SE (1)		
Bozeman (City)²				
Mobile homes	PU			
Manufactured housing (HUD)	PU	PU (6)		
Mobile home parks	PU			
Butte (City/Co.)³				
Mobile homes		PU (3)		
Manufactured housing (HUD)			PU	
Mobile home parks ⁴		PU (3)		
Helena (City)⁵				
Mobile homes ⁶				
Manufactured housing (HUD)		PU (3), CU (2)		
Mobile home parks ⁷		CU (2)		

(Continued on next page.)

TABLE 12 - Continued

<u>City/County</u>	<u>Mobile Home (MH/PUD) District</u>	<u>Other Residential Districts¹</u>	<u>All Residential Districts</u>	<u>Other Zoning Districts¹</u>
Great Falls (City)				
Mobile homes	PU			PU (2) ⁸
Manufactured housing (HUD)	PU	PU (3)		PU (2) ⁸
Mobile home parks	PU			PU (2) ⁸
Great Falls (Co.)				
Mobile homes			PU	
Manufactured housing (HUD)			PU	
Mobile home parks			PU	
Missoula (City)				
Mobile homes	PU			
Manufactured housing (HUD)	PU			
Mobile home parks	PU			
Missoula (Co.)				
Mobile homes	PU		PU ⁹	
Manufactured housing (HUD)	PU		PU ⁹	
Mobile home parks	PU ¹⁰			

PU -- Permitted Use
 CU -- Conditional Use
 SE -- Special Exception

Sources: Billings City Zoning Ordinance.
 Bozeman City Zoning Ordinance, No. 1144.
 Butte-Silver Bow Zoning Ordinance, No. 53.
 Cascade County Zoning Ordinance.
 Great Falls Municipal Zoning Code, January 20, 1987.
 Helena City Zoning Ordinance.
 Missoula City Zoning Ordinance.
 Missoula County Zoning Resolution, No. 76-113.
 Yellowstone County Zoning Plan.

(Continued on next page.)

TABLE 12 - Continued

¹Number in parenthesis following the type of use is the number of zoning districts of that category.

²Gallatin County, surrounding Bozeman, has a number of individual zoning districts, each with its own regulations.

³Butte-Silver Bow is a single planning/zoning jurisdiction incorporating both the city and county.

⁴Butte-Silver Bow has no mobile home district designation.

⁵Lewis and Clark County, surrounding Helena, has some zoning districts, each with its own regulations. There is no county-wide zoning/regulation.

⁶Mobile homes in Helena are permitted in mobile home parks only.

⁷Helena (City) has no mobile home district designation.

⁸Manufactured dwellings are permitted in two commercial districts.

⁹This use requires five or more acres.

¹⁰This is an overlay zone in any residential district and requires a zone change.

TABLE 13

ZONING RESTRICTIONS IN MONTANA
 APPEARANCE STANDARDS FOR MANUFACTURED HOUSING

	<u>BILLINGS¹</u>	<u>BOZEMAN</u>	<u>BUTTE</u>	<u>HELENA</u>	<u>GREAT FALLS</u>	<u>MISSOULA²</u>
Size of Unit				X	X	
Shape of Unit					X	
Roof Materials		X		X	X	
Roof Pitch		X		X	X	
Eaves		X		X	X	
Foundation/ Enclosure		X	X	X	X	
Anchoring			X	X		
Running Gear Removed			X	X		
Placement on Lot		X				
Siding Materials		X		X	X	
Siding Colors		X				
Accessory Bldgs Materials/Colors		X				
Height of Floor Above Lot		X				
Standards of District		X				

Sources: Billings City Zoning Ordinance.
 Bozeman City Zoning Ordinance, No. 1144.
 Butte-Silver Bow Zoning Ordinance, No. 53.
 Great Falls Municipal Zoning Code, January 20, 1987.
 Helena City Zoning Ordinance.
 Missoula City Zoning Ordinance.
 Missoula County Zoning Resolution, No. 76-113.
 Yellowstone County Zoning Plan.

Note: Some standards may be required although not distinctly stated. For example, anchoring is usually required by building officials and running gear is generally removed if a foundation is required.

Note: These appearance standards are generally required only for individually sited manufactured housing and not for units located in a mobile home park.

¹Billings does not have any stated standards.

²Missoula does not have any stated standards.

Bozeman allows manufactured homes (HUD Code) in most residential zones, but also includes numerous appearance standards to enhance their suitability.³⁹ Manufactured homes are allowed in six residential districts and has the most appearance standards of any jurisdiction. Mobile homes, pre-1976, are limited to a mobile home district. The surrounding county is made up of separate zoning districts, each with its own regulations.

Butte-Silver Bow is the least restrictive.⁴⁰ It allows manufactured homes (HUD Code) in all of the residential districts and has only four additional standards. Mobile homes, pre-1976, are permitted only in mobile home parks. Mobile home parks are allowed in three residential zones.

The city of Helena also permits manufactured homes (HUD Code) in all of its residential zones, either as a permitted use or a conditional use.⁴¹ In addition, Helena has a number of appearance standards. Mobile homes (pre-1976) are only permitted in mobile home parks, which are allowed as a conditional use in two residential districts. There is no county wide zoning although there are some individual zoning districts each with their own regulations.

Great Falls allows mobile homes and mobile home parks

³⁹Bozeman City Zoning Ordinance, No. 1144.

⁴⁰Butte-Silver Bow Zoning Ordinance.

⁴¹Helena City Zoning Ordinance.

in a mobile home district and in two commercial districts.⁴² Manufactured homes (HUD Code) are permitted in two additional residential districts. Great Falls also has a number of additional appearance standards.

Model Zoning Regulations

Most model zoning regulations have tended toward developing a sophisticated system for regulating manufactured housing in single-family neighborhoods. The emphasis has been to treat manufactured homes the same as site-built homes if it can be shown that the construction and architectural style is consistent and compatible with other conventional homes in the neighborhood. For instance, manufactured homes meeting HUD Codes and possessing certain architectural or appearance features are permitted in any residential district. Manufactured homes, especially older mobile homes, not meeting these standards are more restricted.

The first problem in developing regulations is to clearly define terms in order to clarify and simplify the regulations. This was found to be a problem in the surveys conducted by the APA and is present in some of the jurisdictions surveyed in Montana. There are three types of

⁴²Great Falls Municipal Zoning Ordinance and Cascade County Zoning Ordinance.

factory-built structures which must be defined in an ordinance:

1. Manufactured homes built according to HUD Codes;
2. Mobile homes built prior to the enactment of the HUD Codes; and
3. Modular homes built to UBC or other local building code.

In addition, manufactured home developments should be defined to differentiate between subdivisions, parks, condominiums or a combination of these.

Appearance standards are another form of regulating manufactured housing. Communities use appearance standards to ensure compatibility with site-built homes where manufactured homes are permitted outside of manufactured home developments. These standards have been established in some cases for manufactured housing only, while other communities have adopted them for all types of single-family detached housing. In Montana these additional standards are applicable to manufactured housing only.

If challenged in court it might be difficult to defend such standards unless they are applicable to all types of single-family housing, whether it is built in a factory or on-site. When those standards are applicable to all types of single-family housing the regulations are more equitable and are usually less discriminatory.

Almost all of the appearance standards noted in the

literature review were present in the survey of Montana communities.⁴³

One of the most frequently used standards is the requirement for foundations and skirting to enclose the underside of the structure. A complete perimeter enclosure is required that is similar in durability and appearance to other conventional foundations. Within this enclosure an anchoring system is also required so as to be totally concealed under the structure. The towing and running gear are also generally required to be removed. These last two items are frequently assumed when foundations are required, but should be stated as part of the standard.

Roofs are another important consideration. Included in this category is a minimum pitch, minimum distance of eave to ridge, width of eave, and roofing materials. The pitch of the roof should be approximately one foot of rise for each four feet of horizontal run. A minimum distance from eaves to ridge should be ten feet. The size of eaves should be defined, with a minimum of six inches in width suggested. Last fall, acceptable roof materials need to be defined. In general, any roofing material that is generally acceptable for housing in the area may be used. Suggested materials

⁴³These standards were noted in several publications, but the primary reference was Frederick H. Bair, Jr., Regulating Mobile Homes, Planning Advisory Service, No. 360, (Chicago, Illinois: American Planning Association, April 1981), pp. 7-16.

include non-metallic wood shake, composite shingles or tiles.

Another standard which is frequently used relates to the exterior finish. This can include siding materials, finish/colors, fenestration (arrangement, proportioning, and design of windows and doors) or other features which would be incompatible with other site-built structures in the neighborhood. One concern here is that reflection from the exterior should not be greater than from siding coated with clean, white, gloss, exterior enamel. Suggested materials include metal lap siding, simulated wood siding, or wood or masonry veneer siding.

A minimum width of 20 feet, measured at the narrowest portion, is frequently suggested. This requires a multi-section structure at a minimum. Some variations in language include the shape must be basically rectangular.

There are numerous other standards which might be used to regulate housing. Minimum floor areas are sometimes suggested. Standards such as these must be reasonable so as not to be considered exclusionary. Minimum floor area requirements should be related to the number of occupants and established in the building codes. There must be a relation to promoting health, safety, morals and general welfare for it to be valid and upheld in court.

Another suggestion is that the finish floor level be a minimum distance above the grade of the lot. Placement and

orientation of the structure as it relates to the street frontage is another consideration. The exterior materials and finish of garages, carports, and accessory buildings should be compatible with the materials and finish of the main structure. Finally, a garage or carport should be provided for every dwelling.

Last of all, all single-family dwellings should meet the development standards for the district in which they are located. These standards include, but are not limited to, lot area and dimension, density, setbacks, building height, lot coverage, location of accessory buildings, and off-street parking.

Some flexibility and fairness must be used in adopting and administering these rules. For instance, the minimum width requirement of 20 feet excludes all single-section manufactured homes regardless of how they look. In addition, the language of some standards may not be definitive enough to preclude arbitrary administrative decisions when determining whether a home is acceptable. In these cases, processes to appeal such decisions must be set up.

The administration of these standards is the last step to be considered, before regulations can be written. It has been clearly shown in this paper that manufactured housing is not all alike. There are considerable differences between a pre-1976 mobile home, located in a mobile home

park, and a newer manufactured home built on a permanent foundation.

Classification systems have been developed which differentiate units based on new or used, code by which they are constructed, condition, and ability to meet appearance standards. Frederick H. Bair suggests the use of six categories to determine where they can be located.⁴⁴ Bair also establishes a multi-level review process that applies not only to manufactured housing, but to all uses. In this case the more similar the design of the manufactured home (built to HUD Codes) to conventional housing, and the less exclusive the residential district, the less formal the review process required.

Preferred Solution for the Missoula County Zoning Regulations

The previous sections of this study have attempted to present examples of ordinances used to regulate manufactured housing. The final part presents recommendations to update the ordinances in Missoula, Montana. As previously mentioned, the emphasis of these recommendations is for the individual siting of manufactured housing in the county.

There are a number of reasons for this emphasis. First of all, the city has clearly decided against permitting manufactured homes and mobile homes within the city except

⁴⁴Ibid, pp. 3-6.

in mobile home parks or where they are permitted as a continuing non-conforming use. This does not mean that the city could not or should not adopt some form of these recommendations. Clearly, they would have trouble defending their present ordinance in court, and a revision should be made.

The other reasons apply to the county. No attempt is made to address mobile home park regulations. These are generally adequate and would require a study in itself. A second reason relates to the current ordinance as adopted by the county. The county does not adhere to the stated regulations and realizes the need to change the zoning resolution. In addition, the county has decided to permit manufactured housing in accordance with current court decisions, thereby treating them equally to site-built homes.

Recommendations are built around manufactured housing being allowed in all residential districts. This is based on the current policy of the zoning administrator. A classification system is used although the recommendations could be similarly administered without a classification system. This system utilizes the present zoning administrative structure. For instance, permitted uses are uses by right and would be processed through the normal permit process. Uses by right indicates that the use meets the intent of the district without additional conditions or

special review. Conditional uses require additional review by the zoning administrator, and special exceptions must be approved by the Missoula County Zoning Board of Adjustment.

The proposed changes to the Missoula County Zoning Resolution is presented in three parts. In the first part, terms are defined as used throughout the regulations. This includes definitions for various types of manufactured housing and the classification system.

Changes to the various residential districts, and the class of structures allowed therein, is the second part of the recommendation. A classification system incorporating four classes of manufactured housing was developed to provide some flexibility, while at the same time, attempting to insure that structures permitted are compatible in a given residential neighborhood.

Class A structures consist of modular homes and manufactured homes (HUD Code) which meet all of the appearance standards. These homes are permitted in all single-family residential districts.

Class B structures are manufactured homes (HUD Code) which do not meet all of the appearance standards. These structures are conditional uses in all of the single-family residential districts and require additional review to determine their compatibility within a neighborhood.

Class C structures are mobile homes (pre-1976) which meet all of the appearance standards. These are conditional

uses in districts with residential density of one dwelling per five acres or more, and are special exceptions in all other single-family residential districts.

Class D structures include mobile homes (pre-1976) which do not meet the appearance standards. These are permitted only in mobile home parks.

The third part of this recommendation includes the addition of appearance standards. These standards are applicable to all single-family residential dwellings, except for manufactured homes/mobile homes located in mobile home parks. This helps to provide equal treatment for all single-family residential dwellings, thereby eliminating one of the arguments frequently seen in court.

This recommendation allows manufactured housing in all of the single-family residential districts, providing flexibility while protecting the character of the neighborhood. Flexibility is created with the use of a classification system, while at the same time, architectural integrity within neighborhoods is preserved through the addition of appearance standards. Changes to the zoning resolution are presented section by section.

Section 1 defines terms used in the ordinance. The following terms should be substituted or added where appropriate:

1. Classification of Single-Family Residential Manufactured Structures:

Class A - Modular homes and manufactured homes which meet all of the acceptable similarity appearance standards in accordance with Section III.

Class B - Manufactured homes which do not meet all of the acceptable similarity appearance standards in accordance with Section III.

Class C - Mobile homes which meet all of the acceptable similarity appearance standards in accordance with Section III.

Class D - Mobile homes which do not meet all of the acceptable similarity appearance standards in accordance with Section III.

2. Manufactured Home - Any movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes, and meets the Federal Mobile Home Construction and Safety Standard established in June 1976, and evidenced as meeting such standards by the manufacturer's data plate affixed to the structure.

3. Manufactured Structure - Any structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site.

4. Mobile Home - Any movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes, and does not meet the Federal Mobile Home Construction and Safety Standard established in June, 1976.

5. Modular Home - any multi-sectional dwelling which is manufactured some place other than its installation site, and which is transported to its installation site on a removable and reusable chassis system, and which is designed to be installed upon a permanent foundation, and which is constructed to meet either the Uniform Building Codes (UBC) or the building codes of the Council of American Building Officials (CABO), and

evidenced as meeting such standards by the manufacturer's data plate affixed to the structure.

Section 2 establishes districts and the uses allowed within them. The following districts should be amended where appropriate. Districts C-A1 Open and Resource Lands, C-A2 Residential, and C-A3 Residential: Class A manufactured structures are permitted uses; and Class B and C manufactured structures are conditional uses. Districts C-RR1 Residential, C-RR2 Residential, C-RR3 Residential, C-R1 Residential, and C-R2 Residential: Class A manufactured structures are permitted uses; Class B manufactured structures are conditional uses; and Class C manufactured structures are special exceptions.

Section 3 establishes provisions for standards as may be necessary to promote health and safety and to ensure orderly community development. The following subsection should be inserted for single-family dwellings.

Section 3.xx - Standards for Determination of Acceptable Similarity in Exterior Appearance for Construction of Single-Family Dwellings.

The following standards shall be used in determinations of acceptable similarity in appearance and construction between factory-built and site-built homes to assure such homes will be compatible in appearance with housing that has been or may be constructed in adjacent or nearby locations. Manufactured homes and mobile homes placed in an approved mobile home park are exempted from this section.

A. Standards

1. No dwelling shall have fenestration or other features, or use of colors or color combinations that will be incompatible in the residential neighborhood. Fenestration

refers to the arrangement, proportioning, and design of windows and doors.

2. Dwellings shall be set on a foundation that is approved by the building inspector. Manufactured structures shall have a complete perimeter enclosure similar in appearance and durability of masonry foundations, or similar to conventional foundations in the surrounding neighborhood.
 - a. Manufactured structures shall be secured with anchoring devices that are approved by the building inspector and shall be totally concealed under the structure.
 - b. Manufactured structures shall have towing hitch and running gear removed.
3. The roof shall have sloping lines with eaves, such as gable, mansard, and shed style roofs, or shall be compatible with conventionally-built homes in the surrounding areas.
 - a. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run.
 - b. The minimum distance from eaves to ridge shall be ten (10) feet, with the eave a minimum of six (6) inches in width.
 - c. Roofing materials shall be non-metallic shake, tile, composite shingle, or other materials commonly found on conventionally built homes in the surrounding area.
4. The exterior covering material shall be similar or closely compatible to that found on conventionally-built residential structures in the surrounding area.
 - a. The siding shall be metal lap, or simulated wood, or wood or masonry veneer siding.
 - b. Reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.

- c. The exterior covering material shall extend to the ground. If a solid concrete or masonry perimeter foundation is used, the exterior covering material shall extend below the top of the foundation.
5. The exterior covering and roofing materials of the garage(s) or carport(s) shall be compatible with the materials on the dwelling.
6. A garage or carport is required. This requirement may be waived in cases where the deletion would be consistent with the surrounding neighborhood.
7. All dwellings shall be at least twenty (20) feet wide at the narrowest point. Manufactured structures shall consist of two or more sections and when assembled shall be basically rectangular in plan.
8. The dwelling must be oriented on the lot so that its long axis is parallel with the street. A perpendicular placement may be permitted if there is a building addition so that the narrowest dimension of the dwelling, as so modified and facing the street, is no less than fifty (50) percent of the dwellings long dimension.
9. Alterations to manufactured homes (HUD Code) may invalidate the HUD certification. Documentation will be required indicating that alterations made do not adversely affect the integrity and/or design of the structure.
10. All dwellings shall meet the space and bulk requirements of the district in which it is located.

B. Deviations from Standards

The zoning administrator may approve deviations from one or more of the appearance standards on the basis finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing conventional site-built structures in the vicinity. The determination may be appealed to the

Zoning Board of Adjustment in accordance with Section 8.04.

Changes should also be made in each of the individual zoning district regulations. As previously mentioned, the governing body is also responsible for the content of these regulations. At a minimum all manufactured homes built after 1976 (HUD Code), in addition to modular homes, should be a permitted use and treated the same as site-built homes. Because these regulations are usually very simple any additional standards as sophisticated as those previously presented would be difficult to incorporate into the regulations.

Non-conforming uses is the last problem to be dealt with. In Missoula County, the site determines the legal non-conformity of the use, not the mobile home itself. The legal non-conforming status of the property remains intact as long as all hookups are present and the site is ready for placement of a mobile home.

Ideally these uses should be eliminated over time. Amortization of uses has previously been attempted and there is usually considerable political resistance to this extreme measure. Case law regarding amortizing non-conforming mobile homes does not support this action especially with respect to units on private lots.

The other course of action is to apply the proposed appearance standards, or some form of them, any time a newer mobile home/manufactured home replaces another. It is

important that only newer units replace a non-conforming unit in order to provide for more conformity.

CHAPTER V
CONCLUSION/SUMMARY

Manufactured homes are a relatively new form of housing which have evolved as a result of changing socio-economic forces. The growth of the industry has come about due to the rise in the cost of conventional housing. While site-built homes have continued to escalate in price, the cost to build manufactured homes has remained low. As a result site-built housing has become inaccessible to a larger segment of the population, with manufactured housing becoming more attractive to lower income individuals.

While manufactured housing has developed into a popular alternative to convention single-family dwellings, the response from planning and regulatory agencies has been slow indicating unwillingness to adapt housing regulations. Zoning ordinances have severely limited manufactured housing with regulations that are frequently obsolete, inadequate and generally discriminatory.

The court system views many of these ordinances as exclusionary and therefore invalid. Recent judicial decisions now favor manufactured homes with findings that they should be treated equally to site-built homes. As a result, zoning administrators need to revise their ordinances to permit manufactured housing, while finding

more innovative ways to integrate these homes into traditional single-family neighborhoods.

The zoning ordinances in Missoula, Montana could be considered exclusionary. The regulations tend to exclude manufactured housing from most residential neighborhoods and are in need of revision. Most of the other major cities located throughout Montana have already begun to develop more innovative zoning regulations for manufactured housing.

While reviewing several Montana zoning ordinances and model zoning ordinances, a variety of options were presented for regulating manufactured housing. From those alternatives a preferred solution was developed for revising the regulations in Missoula. The recommendations are centered around a classification system and appearance standards which help to maintain the unique quality of the single-family neighborhood.

The recommendations permit manufactured housing in all residential districts. Instead of excluding them an approach was devised which protects the character of the single-family neighborhood. The classification system differentiates between older mobile homes and newer manufactured homes which are similar in design to site-built homes; while at the same time appearance standards are utilized to insure that architectural integrity is preserved within a neighborhood.

In conclusion, this approach will allow the zoning administrator in Missoula a way to integrate manufactured housing into all single-family neighborhoods while providing equal treatment for all single-family housing. At the very least the regulations need to be updated in the county to incorporate the policies now being utilized. These recommendations will not only accomplish this, but will help to insure that manufactured housing is integrated into these neighborhoods in a harmonious manner.

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