

**§4-4 MANUFACTURED HOME COMPATIBILITY STANDARDS**

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**§4-4 MANUFACTURED HOME COMPATIBILITY STANDARDS**

*Commentary: The subject of manufactured homes deserves extensive commentary prior to presentation and discussion of a model code on manufactured home compatibility standards.*

*Overview. Whatever one’s views regarding manufactured housing, it cannot be disputed that the manufactured housing of today is quite different from the mobile homes of 20 or more years ago. “Mobile homes,” as they are commonly thought of, are no longer being built, and “manufactured homes” have taken their place. Manufactured housing is much more like traditional site-built housing than was the traditional mobile home. The manufactured housing industry contends that there is no appreciable difference between*

*the two; nevertheless, manufactured housing is generally thought of as being "alternative housing" meaning, an alternative to site-built housing. Being generally less expensive than site-built housing, manufactured housing is also considered to provide viable housing opportunities for low-income families.*

*Federal Preemption of Construction and Safety Standards.* *Manufactured homes are regulated nationally by The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282. The U.S. Department of Housing and Urban Development (HUD) administers the national manufactured housing program. It was established to protect the health and safety of the owners of manufactured homes. Under the program, HUD issues, monitors, and enforces federal manufactured home construction and safety standards. The standards preempt state and local laws that are not identical to the federal standards. HUD may enforce the standards directly or by various states that have established State Administrative Agencies (SAAs) in order to participate in the program.*

*What Aspects of Manufactured Homes Can Local Governments Regulate?* *The legal validity of local regulation of manufactured housing is complicated by the fact that construction, safety, and energy standards for manufactured housing are regulated by the federal government. State and local governments are "preempted" by federal law (the National Manufactured Housing Construction and Safety Standards Act of 1974) from enacting construction, safety, and energy standards that are stricter than those established by federal regulations adopted by HUD. However, it is generally acknowledged that federal legislation does not limit the authority of local governments to regulate the location and appearance of manufactured housing, as long as they do not do so based on compliance or noncompliance with more strict construction, safety, and energy standards.*

*Relevant Court Cases.* *In Cannon v. Coweta County, 389 S.E.2d 329 (1990), the court struck down a county zoning ordinance that prohibited siting manufactured homes in areas other than in manufactured home parks because the ordinance was not sufficiently related to the public health, safety, and welfare, and thus, not within the scope of the county's zoning authority. In Georgia Manufactured Housing Association, Inc. v. Spalding Co., 148 F.3d 1304 (11th Cir. 1998), the Eleventh Circuit Court of*

*Appeals upheld Spalding County's zoning ordinance, which imposed a 4:12 roof pitch requirement on manufactured homes. The Court overruled the lower district court's decision that: (1) the local roof pitch requirement impaired the Federal government's superintendence of the manufactured home industry; (2) the requirement had no substantial relation to the promotion of safe, attractive, and affordable housing; (3) the requirement unduly burdened interstate commerce; and, (4) the ordinance violated the plaintiffs' substantive due process rights. The Eleventh Circuit held that the roof pitch requirement was an aesthetic standard that fell outside the preemptive reach of the Manufactured Housing Construction and Safety Standards Act. In a footnote, the Court criticized its own 1988 Scurlock v. Lynn Haven decision, which broadly interpreted the preemptive scope of the Act. The Court also found that the ordinance satisfied the rational basis test because its purported purpose was to further aesthetic compatibility. Finally, the Court dismissed the argument that it burdened interstate commerce, because it treated all manufactured home manufacturers equally, regardless of their location. Source: Summary of State Laws and Court Decisions Regarding the Zoning, Placement and Tax Treatment of Manufactured Housing, Manufactured Housing Institute. [http://www.mfghome.org/DR\\_state\\_laws\\_map.html](http://www.mfghome.org/DR_state_laws_map.html).*

#### §4-4-1        PURPOSE

The purpose of this Resolution [Ordinance] is to ensure that manufactured homes are installed on a site according to applicable federal and manufacturer's requirements. This Resolution [Ordinance] is also intended to ensure architectural compatibility of manufactured homes with adjacent single-family residences and other land uses through the application of architectural compatibility standards.

#### §4-4-2(A)     BASIC DEFINITIONS

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes

within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

#### §4-4-2(B) DEFINITIONS REGARDING ARCHITECTURAL COMPATIBILITY

Commentary: *Most, if not all, of these definitions are needed only if the local government adopts Type 3 compatibility standards (see §4-4-7).*

Architectural features: Ornamental or decorative features attached to or protruding from an exterior wall, including cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

Bay window: A window assembly whose maximum horizontal projection is not more than two feet from the vertical plane of an exterior wall and is elevated above the floor level of the home.

Compatibility: With regard to buildings, compatibility means achieving harmony in appearance of architectural features in the same vicinity.

Dormer: A window projecting from a roof.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

#### §4-4-3 LAND USE PERMIT REQUIRED

No manufactured home shall be installed on any site, nor shall any such manufactured home be occupied or used for any purpose until and unless a Land Use Officer issues a land use permit. The Land Use Officer shall not issue a land use permit for installing, occupying, or using a manufactured home unless it is in conformity with all the provisions of this Resolution [Ordinance].

#### §4-4-4 BASIC INSTALLATION REQUIREMENTS

§4-4-4.1 Foundation. Each manufactured home must be set on an appropriate foundation.

§4-4-4.2 Hauling Mechanisms Removed. The transportation mechanisms, including wheels, axles, and hitch, must be removed prior to occupancy.

§4-4-4.3 Installation Regulations. The manufactured home shall be installed in accordance with the installation instructions from the manufacturer, as appropriate.

§4-4-4.4 Approved Septic System. Each manufactured home shall be connected to a public sanitary sewer system, community sewerage system, or on-site septic system with capacity available as approved by the health officer.

*Commentary: The sections that follow provide three optional gradations of manufactured home compatibility. Type 1 compatibility standards (§4-4-5) are the minimum architectural standards considered necessary and are recommended to apply everywhere in a given local government jurisdiction. Type 2 compatibility standards (§4-4-6) provide a greater amount of architectural compatibility and are appropriate for manufactured homes being infilled on vacant lots in neighborhoods containing predominantly site-built single-family residences. Type 3 compatibility standards (§4-4-7) are intended to apply within areas of upscale homes and adjacent to or within properties listed on the National Register of Historic Places, locally designated historic districts, other design review districts, and similar areas where the impact of an unregulated manufactured home could have significant impacts on the character and aesthetics of its surroundings.*

#### §4-4-5 TYPE 1 COMPATIBILITY STANDARDS (See Figure 4-4-5.0)

§4-4-5.1 Applicability. This subsection shall apply in all areas within the County [City] that lie within 200 feet of a state highway or county-owned road [or insert description of other appropriate geography].

§4-4-5.2 Foundation. The manufactured home shall be placed on a permanent foundation.

§4-4-5.3 Skirting. The entire perimeter area between the bottom of the structure and the ground of each manufactured home shall be skirted or underpinned with brick, masonry, finished concrete or siding (of like or similar character to the

manufactured home) that completely encloses the perimeter of the undercarriage except for proper ventilation and access openings.

§4-4-5.4 Exterior Finish. The exterior siding of the manufactured home shall consist of wood, hardboard, vinyl, or plastic siding material.

§4-4-5.5 Roof Pitch and Materials. The manufactured home shall have a pitched roof with a slope of at least two feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, asphalt shingle, coated metal, or similar material.

#### §4-4-6 TYPE 2 COMPATIBILITY STANDARDS (See Figure 4-4-6.0)

§4-4-6.1 Applicability. This subsection shall apply to all manufactured homes sited on lots located within 500 feet of two or more existing site-built single-family residences.

§4-4-6.2 Foundation. The manufactured home shall be placed on a permanent foundation.

§4-4-6.3 Masonry Skirting. The entire perimeter area between the bottom of the structure of each manufactured home and the ground, including stairways, shall be underpinned with masonry that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.

§4-4-6.4 Exterior Finish. The exterior siding of the manufactured home shall consist of wood or hardboard siding material.

Figure 4-4-5.0

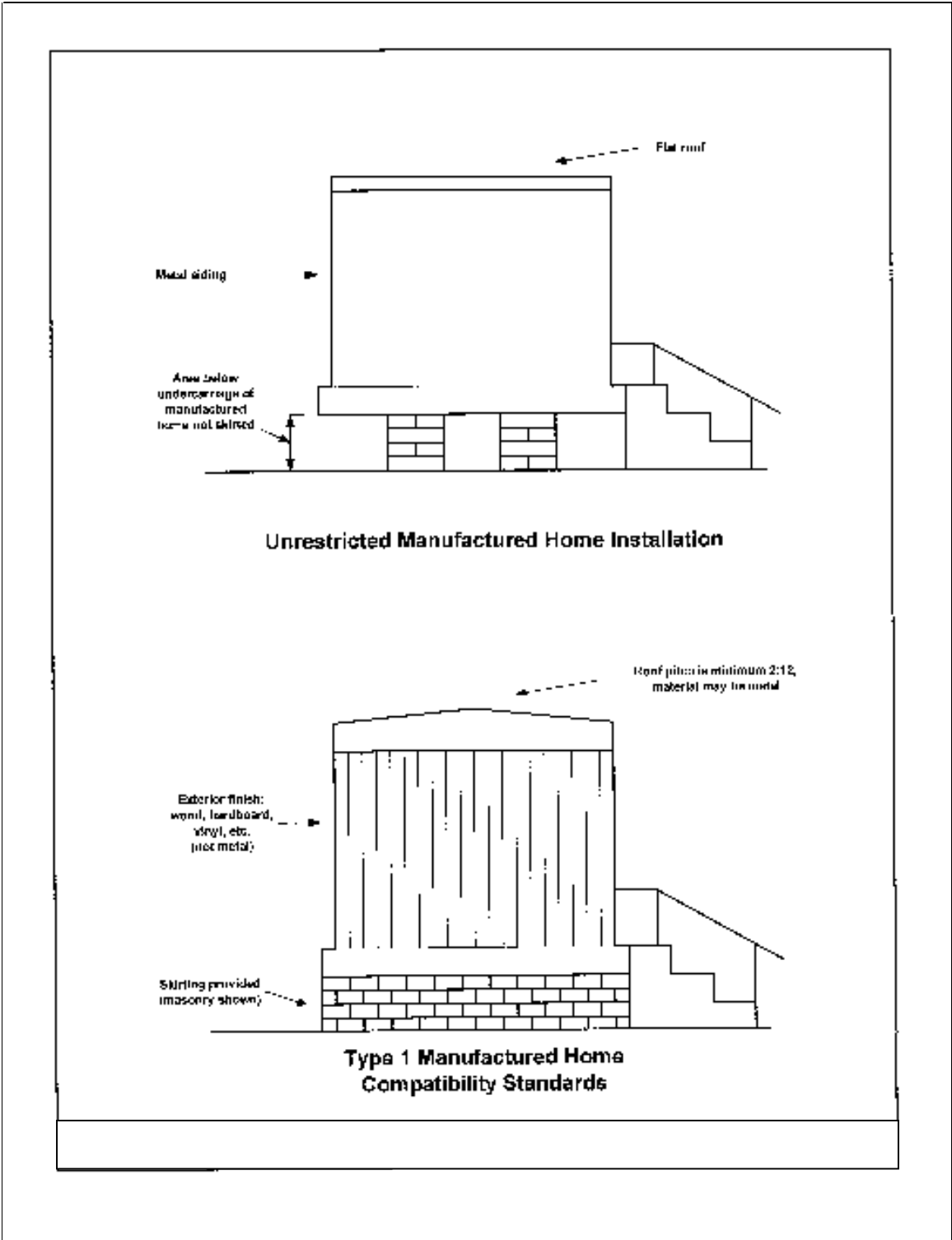
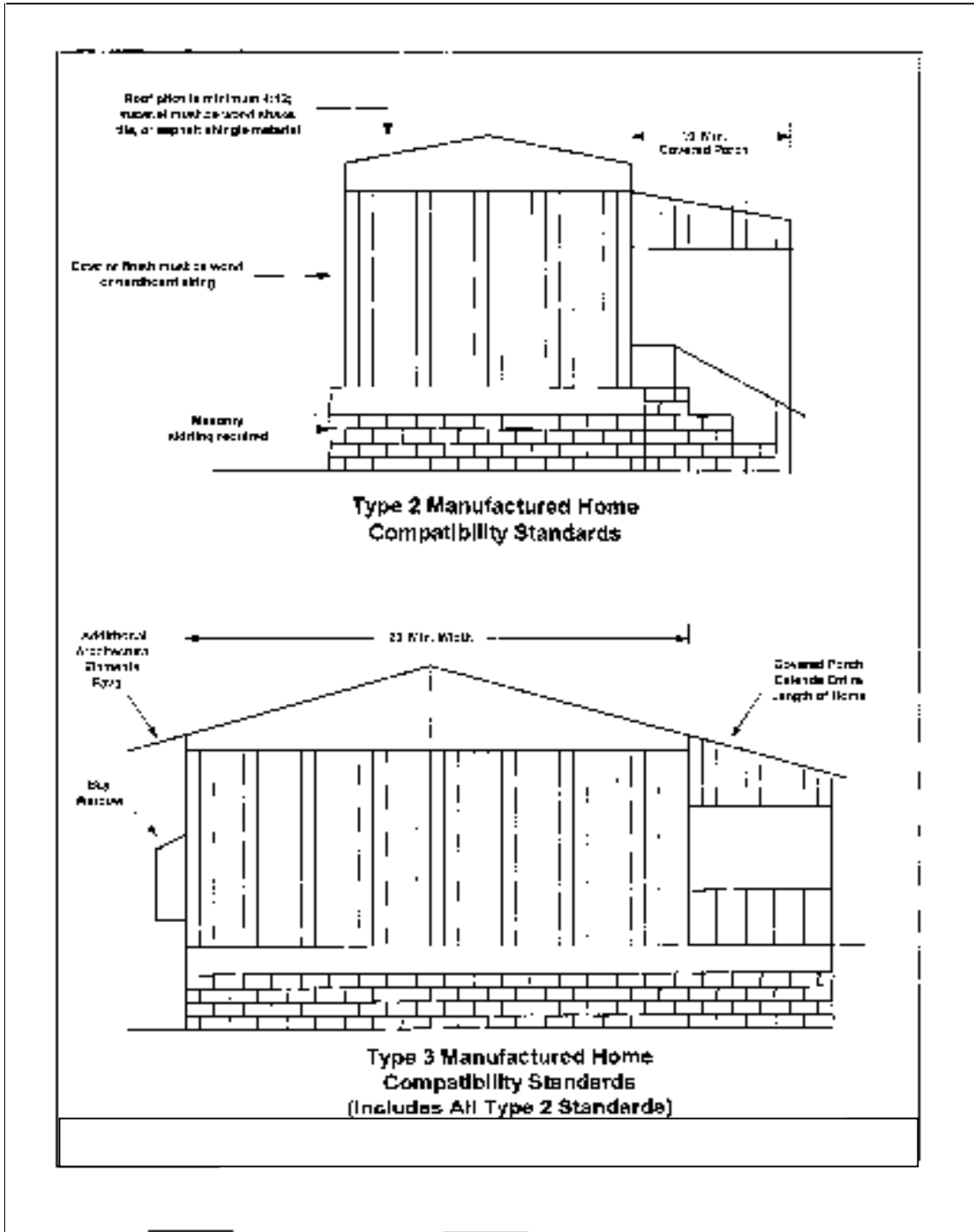


Figure 4-4-6.0



§4-4-6.5 Roof Pitch and Materials. The manufactured home shall have a pitched roof with a slope of at least four feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, or asphalt shingle material.

§4-4-6.6 Covered Porch or Deck. A covered porch, deck, or entry area at least 10 feet by 10 feet shall be added for each entrance to the manufactured home prior to occupancy.

#### §4-4-7 TYPE 3 COMPATIBILITY STANDARDS

§4-4-7.1 Applicability. This subsection shall apply to areas where the strictest compatibility standards are necessary to ensure architectural harmony of manufactured homes with adjacent and nearby site-built homes and other land uses. These standards shall apply in addition to the Type 2 Compatibility Standards provided in §4-4-6.

§4-4-7.2 Width. The manufactured home shall consist of two fully enclosed parallel sections and a total width of at least 20 feet.

§4-4-7.3 Covered Porch. A covered porch or deck shall be provided along the entire length of the manufactured home facing the front yard or street prior to occupancy, with a 10-foot minimum depth.

§4-4-7.4 Additional Architectural Features. The manufactured home shall contain eaves with a minimum projection of six inches, window shutters, and at least one additional architectural feature such as dormers, bay windows, or another architectural feature that will provide equal compatibility with surrounding residences and land uses, as approved by the Land Use Officer.

Commentary: *This module is written as if it is a part of the larger land use management code. However, it could be adopted as a stand-alone ordinance if an appropriate preamble is written and the following provisions are added to this text:*

- §2-0-2            ADOPTION AND EFFECTIVE DATE  
§2-0-3            LEGAL STATUS PROVISIONS  
§2-0-4            ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

*For additional assistance. The manufactured home industry takes an active role in reviewing and commenting on local ordinances that regulate manufactured homes. Local governments are encouraged to work with the manufactured home industry in preparing their regulations. Contact: Georgia Manufactured Housing Association, 1000 Circle 75 Parkway, Suite 060, Atlanta, GA 30339. 770.955.4522*

### **References**

Forsyth County, Georgia, Unified Development Code. 2001.

Sanders, Welford. 1993. Manufactured Housing Site Development Guide. Planning Advisory Service Report No. 445. Chicago: American Planning Association.