



# GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS

Laura Meadows  
COMMISSIONER

Sonny Perdue  
GOVERNOR

## MEMORANDUM

TO: Whom It May Concern

From: Jerry Hurd-Smith  
Program Coordinator, Industrialized Buildings

Date: January 21, 2003

RE: Siting of Industrialized/Modular Buildings in Georgia

Periodically building permits are refused for installation of industrialized/modular buildings, approved by this office and bearing the insignia of the commissioner. Often, the basis for refusal is that the building(s) is not constructed on site or that the building is a manufactured/mobile home.

Industrialized/modular buildings are not manufactured/mobile housing. The Federal Government regulates manufactured housing and must have the chassis or carrier permanently attached. They are also "Titled" by the Georgia Department of Revenue, Motor Vehicle Division. Industrialized/modular homes (one and two family) may not have the chassis as part of the supporting structure and are not issued a "Title" document.

The Official Code of Georgia Annotated (OCGA), Section 8-2-112(b)(1) states that "All industrialized buildings bearing an insignia of approval issued by the Commissioner of Community Affairs pursuant to this part *shall be held to comply* with the requirements of all ordinances or regulations enacted by any local government which are applicable to the manufacture or installation of such buildings. The determination of the Commissioner of the scope of such approval is final." (Underlining and Italics added for clarity.) The Appeals Court of Georgia has determined that an industrialized building is to be considered a modular building. Higher appeal to the Georgia State Supreme Court was denied.

In addition, rule 110-2-4-.01 of the Rules of the Commissioner of Community Affairs for Industrialized Buildings, while reserving the right of zoning and site development to local government, requires local government to apply these regulations "... without distinction as to whether such building is manufactured off site or built on site in a conventional manner."

It is the interpretation of the Department of Community affairs that the Industrialized Buildings Act and the rules of the Commissioner of Community Affairs prohibit the restriction of an industrialized/modular building from a zoning district based solely on the fact that it was not built on site.

Some local ordinances may be in conflict with the above-referenced code and rule sections. Accordingly, it is suggested that a local government review this situation with their county or city attorney.

If you have any questions or need additional information, please contact myself (404) 697-3102 or John Watts (404) 679-5246.



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**TO:** Whom It May Concern

**FROM:** Jerry Hurd-Smith  
Program Coordinator, Industrialized Buildings

**DATE:** January 14, 2003

**SUBJECT:** Industrialized/Modular Buildings and Manufactured Housing / Mobile Homes

In response to frequent requests for information regarding Industrialized Buildings, also known as modular buildings, and their relationship to manufactured housing, also known as mobile homes, used for single family residences, I offer the following information.

The Court of Appeals of Georgia in case A02A1327. VESTER v. BANKS MI-060 has ruled that "... an industrialized building, a modular home is a factory fabricated, transportable structure, consisting of units that are brought in on a trailer, to be constructed on top of a permanent foundation at the site for residential use." The Georgia Supreme Court refused to review<sup>3</sup> the case in Case No. S02C1911 MICHAEL VESTER v. TILFORD BANKS.

The distinctive characteristics of an industrialized building are:

**DEFINITION:** The Official Code of Georgia Annotated (O.C.G.A.) defines an Industrialized building as "any structure or component thereof which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof" (Ref. O.C.G.A. 8-2-111[3]).

**STANDARDS:** The Industrialized Buildings Act, (O.C.G.A. 8-2-2 Part 1), requires that an industrialized building be built to the standards adopted by the Commissioner of Community Affairs. The Commissioner has adopted the Standard Building Code, CABO One and Two Family Dwelling Industrialized Buildings and the Industrialized Buildings Act Code, Standard Plumbing Code, Standard Mechanical Code, Standard Fuel Gas Code, the National Electrical Code, Georgia State Energy Code for Buildings, the Georgia Water Conservation Act, the Standard Fire Prevention Code and the Rules of the Georgia Safety Fire Commissioner as the



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To Whom It May Concern:

Page Two of Three

January 14, 2003

standards for construction of Industrialized Buildings. Therefore, construction of Industrialized Buildings is substantially the same as a “site built” building. The insignia of the Commissioner, when affixed to a building, is evidence that the design and construction of a building complies with the requirements of the Commissioner’s Rules.

**AUTHORITY:** Industrialized Buildings are regulated in Georgia under the O.C.G.A. Industrialized Buildings Act. The Act defines an industrialized building and preempts local government authority over them. The Act does not provide for regulation of any aspect beyond the physical limit of the industrialized building, this area remains in the realm of the local jurisdiction having authority. The Act also allows the Commissioner, with advice of an Industrialized Buildings Advisory Committee, to promulgate rules, regulations, and standards along with enforcement to carry out the provisions of the Act.

The distinctive characteristics of a manufactured home (mobile home) are:

Manufactured housing is defined in the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq., administered by the U. S. Department of Housing and Urban Development (HUD). “Manufactured Home means a structure, transportable in one or more sections which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air conditioning and electrical systems contained therein.” The definition in the Official Code of Georgia Annotated is similar. Please note the stipulation for a “permanent chassis” in the definition.

**DEFINITION DETAIL:** More specifically, the Federal regulations define a permanent chassis as “the entire transportation system comprised of the following subsystems: drawbar and coupling mechanism, frame, running gear assembly, and lights.”

Therefore, a manufactured home (mobile home) must have a permanent chassis and may be used only as a dwelling.



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Barnes**  
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**Roy E.**  
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GEORGIA ATTORNEY GENERAL'S OPINION: An industrialized building cannot be considered a manufactured house (mobile home). The Attorney General has issued the following



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To Whom It May Concern:

Page Three of Three

January 14, 2003

opinion regarding a mobile home as an industrialized building: "O.C.G.A. 8-2-119 constitutes a total bar in very specific language to considering a mobile home as an industrialized building. O.C.G.A 8-2-119 prohibits your extending the definition of industrialized building, contained in O.C.G.A 8-2-111(3), to mobile homes." (Ref. Op. Attorney Gen. No. 83-15).

**AUTHORITY:** For manufactured housing, construction requirements, plan approvals, and construction inspections are prescribed by the National Manufactured Home Construction and Safety Standards Act of 1974, cited above.

**SUMMARY:** A single family residential industrialized building cannot have a permanent chassis as is required for a manufactured home (mobile home). When an industrialized building is installed on a site, the industrialized building is held to comply with the requirement of all local ordinances or regulations relating to the site. Re-defining an industrialized building does not change the status of the building. Zoning, set backs, land use, etc. remain the sole realm of the local governing authority.

I hope this provides the information you requested. If we can be of further assistance, please call Jerry Hurd-Smith at 404-679-3102 or e-mail to [jhurdsmi@dca.state.ga.us](mailto:jhurdsmi@dca.state.ga.us) or call John Watts at 404-679-5246 or e-mail to [jwatts@dca.state.ga.us](mailto:jwatts@dca.state.ga.us)