

## **Manufactured Housing Consensus Committee**

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**TO:** MHCC

**FROM:** Robert E. Solomon

**DATE:** July 26, 2007

**SUBJECT:** Changes to the MHCC By-Laws

As a result of the discussions and votes on the amendments and revisions to the MHCC by-laws, the following is provided for your review and action.

1. The first PDF document is a legislative text version showing **all** of the changes proposed to the by-laws compared to the February 2004 by-laws. This indicates revised and amended sections as well as any formatting changes that would have resulted.

**NOTE:** This document is many pages in length as it summarizes in detail the various changes made.

2. The second PDF document is a clean copy of the amended/revised by-laws with all of the changes from the first document accepted.

After reviewing the attached documents, please return the enclosed ballot as instructed on the ballot page.

RES:jtm

**Attachments:** Ballot Page  
PDF – Legislative Text  
PDF – Clean Copy

**MHCC BALLOT  
CHANGES TO THE MHCC BY-LAWS**

Please review the material and return a vote on the following:

I agree with the changes proposed for the MHCC by-laws – July 2007 Draft



I disagree with the changes proposed for the MHCC by-laws – July 2007 Draft.

Reason:

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I abstain on the ballot concerning the changes proposed for the MHCC by-laws – July 2007 Draft.

Reason:

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If you disagree or if you abstain on the ballot, please list your reasons. Please return your vote by **Friday, August 3, 2007** to:

MHCC AO OFFICE

Fax: 617-984-7110 or email: [mhccaoffice@NFPA.org](mailto:mhccaoffice@NFPA.org)

## **Bylaws for the Manufactured Housing Consensus Committee as Authorized by the MHIA of 2000**

### **A.1 General**

These bylaws meet the basic requirements for due process and development of consensus for approval of MHCC actions relating to the regulation, manufacture, installation and inspection of manufactured housing as it relates to the requirement of the Manufactured Housing Improvement Act (MHIA) of 2000, the Federal Advisory Committee Act (FACA) and as given in Clause 1 of the ANSI Procedures for the Development and Coordination of American National Standards (approved September 2000). The bylaws are intended to comply with FACA and the regulations in 41 C.F.R. part 102-3. In the event of a conflict between ANSI and the MHIA, the requirements of the MHIA shall prevail. In the event of a conflict among ANSI, the MHIA and FACA, the MHIA or FACA, as appropriate, shall prevail.

### **A.2 Organization of the MHCC**

The Manufactured Housing Consensus Committee (MHCC) shall be composed of 21 voting members and 1 nonvoting member. Support to the MHCC shall be provided by the administering organization. The MHCC shall have a title, scope, and an interest classification system for its members. The membership shall be sufficiently diverse to ensure reasonable balance without dominance by a single interest category in accordance with Clause 1.2.2, 1.2.3 and 1.2.4 of the ANSI Procedures. The MHCC is subject to the FACA, as outlined in its Charter filed with Congress on August 12, 2002.

### **A.3 Responsibilities**

#### **A.3.1 MHCC**

The MHCC shall be responsible for providing proposals, recommendations, or comments to the Secretary to implement the MHCC's responsibilities as outlined in the MHIA of 2000, hereafter called the MHCC's responsibilities. Consistent with the MHCC's responsibilities, the MHCC shall be responsible for:

- a) Proposing changes or providing comments.
- b) Voting on approval of revisions or recommendations.
- c) Maintaining and managing the MHCC actions in accordance with Clause 4.4 of the *ANSI Procedures*.
- d) Adopting MHCC policy and procedures.
- e) Responding to requests for revisions or comments concerning the federal manufactured housing program.
- f) Adopting MHCC policy and procedures for interpretation of MHCC actions.
- g) Reviewing regulations specifying the permissible scope and conduct of the program monitoring.
- h) Other matters authorized for MHCC action as provided by the Secretary, in these bylaws, and within the MHIA of 2000, including adherence to the relevant portions of FACA.

#### **A.3.2 Administering organization**

The administering organization shall be responsible for:

- a) Applying for MHCC accreditation by ANSI and insuring that the MHCC operates within the boundaries of

the ANSI procedures to the extent allowed under the MHIA of 2000 and FACA, including submission of the MHCC roster;

- b) Overseeing the MHCC's compliance with these bylaws;
- c) Maintaining a roster of the MHCC and a list of standards, criteria and requirements for which the MHCC is responsible;
- d) Providing a secretary, through the Administering Organization, to perform administrative work, including secretarial services; preparation of meeting notices and the handling of meeting arrangements; preparation and distribution of meeting agendas, minutes, ballots, and draft standards; and maintenance of adequate records;
- e) Submitting candidate amendments, and when appropriate, standards approved by the MHCC, with supporting documentation, for the Secretary of HUD to review and consider for publication in the Federal Register as a Notice of Proposed Rule Making (NPRM);
- f) Performing other administrative functions as required by these procedures and approved by HUD\*;
- g) The administering organization shall, if approved by HUD\*, provide a written report to HUD and to ANSI defining explicit division of the responsibilities and requirements that are delineated between the ANSI procedures, the FACA procedures and the MHIA of 2000.

#### **A.4 Officers**

The Secretary or the Assistant Secretary for Housing—Federal Housing Commissioner may select the chairperson and vice chairperson, or delegate this authority to the MHCC. The secretary for the MHCC shall be appointed by the Administering Organization.

#### **A.5 Membership**

Voting members shall consist of individuals who are qualified by background and experience to participate in the work of the MHCC. The selection and addition of members, along with their interest category, shall be at the discretion of the Secretary of HUD. The Secretary of HUD also shall have the authority to terminate MHCC members.

##### **A.5.1 Application**

A request for membership on the MHCC shall be addressed to the Secretary or the administering organization and shall indicate the applicant's direct and material interest in the MHCC's work, qualifications and willingness to participate actively.

##### **A.5.2 Review of membership**

The administering organization shall review the MHCC membership list annually with respect to the criteria of Clause A.5. Members are expected to fulfill obligations of active participation. Where a member is found in habitual default of these obligations, the administering organization shall direct the matter to the Secretary of HUD for appropriate action, which may include termination of membership.

##### **A.5.3 Observers and individual experts**

Individuals and organizations having an interest in the MHCC's work may request to participate as observers or members of subcommittees. The MHCC may also select individual experts to assist it. Individual experts selected by the MHCC shall be permitted to assist the MHCC on an ad-hoc basis and shall be subject to approval by vote of the MHCC. Experts providing technical support may receive financial reimbursement of travel

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expenses to allow their involvement on subcommittees to the extent permitted by FACA and approved by HUD\*. Observers and individual experts may be advised of the MHCC's activities, may attend meetings, and may submit comments for consideration, but shall have no vote.

#### **A.5.4 Interest categories**

Each of the three statutory categories of voting members (Producers; Users; and General Interest and Public Officials) shall have the opportunity for fair and equitable participation without dominance by any single interest. Each member shall represent an interest category in accordance with the MHCC's established categories.

The rationale for the selection of categories shall be submitted to ANSI as part of the accreditation application requirements.

#### **A.5.5 Membership roster**

The administering organization shall maintain a current and accurate MHCC roster and shall distribute it to the members and the HUD Committee Management Officer (CMO) at least annually, and otherwise on request. The roster shall include the following:

- a) Title of the MHCC and its designation;
- b) Scope of the MHCC;
- c) Administering organization: name of organization, name of secretary, and address(es);
- d) Officers: chair;
- e) Members: name, address, and business affiliation of individual member(s);
- f) Interest category of each member;
- g) Tally of interest categories: total of voting members and subtotals for each interest category;
- h) For each subcommittee (if authorized by the Secretary of HUD and utilized): title, chair, and names and addresses of all members.

#### **A.6 Subcommittees**

Subcommittees may be created to expedite the MHCC's work, subject to the following restrictions:

- a) Each subcommittee is created only upon authorization by the Secretary of HUD;
- b) Whenever the MHCC desires to create a subcommittee, it shall apply to the Secretary for permission; and
- c) The MHCC shall clearly state the size, scope, and duties of the subcommittee and whether the subcommittee is intended to constitute a FACA committee.
- d) All subcommittees are balanced in accordance with Section A.2.

##### **A.6.1 Chairperson and members of subcommittees**

The Secretary shall appoint the members for all subcommittees that constitute FACA committees. The chair of

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the MHCC shall appoint the chair and members of a subcommittee, unless the Secretary appoints the HUD designated federal officer (DFO) to chair the meeting of any subcommittee. The MHCC shall review the scope, duties, and membership of all subcommittees annually. Except for the chair, the officers and members of a subcommittee need not be members of the MHCC.

### **A.6.2 Approval of subcommittee recommendations**

Draft recommendations for proposed amendments to the manufactured home construction and safety standards, procedural or enforcement regulations, interpretative bulletins, requests for comments by the Secretary and any substantive change (see Clause 1.2.9 of the ANSI Procedures) in the content of a recommendation proposed by a subcommittee shall be referred to the MHCC for approval.

### **A.6.3 Standing Subcommittee on planning and prioritization**

Subject to approval by HUD, a planning subcommittee of at least three persons, with each MHCC member category equally represented, will be appointed by the chair. All requests for action by the MHCC will be forwarded to the planning subcommittee and they will recommend to the MHCC and the DFO the priority in which the issues should be heard.

## **A.7 Meetings**

Meetings of the MHCC and its subcommittees, if any, shall be held as necessary, as called by the DFO or as approved by the DFO. Said meetings shall be held to conduct business, such as making assignments, receiving reports of work, considering draft changes and standards, resolving differences among subcommittees, and considering views and objections from any source. As required by the MHIA, the MHCC shall consider revisions to the Federal manufactured home construction and safety standards at least once every two years. Meetings shall be requested to be held at a frequency sufficient to timely address all actions noted above and may be requested by a majority of the MHCC, the Chair, the administering organization, or as otherwise permitted under FACA. The MHCC may not conduct any meeting in the absence of the DFO.

### **A.7.1 Open meetings**

Meetings of the MHCC and any subcommittee that is a FACA committee shall ordinarily be open to the public, and meetings of all other subordinate bodies shall be open to all members and others having a direct and material interest. At least 15 days notice of regularly scheduled meetings of the MHCC shall be given by the administering organization in the Federal Register, and, if any publication expenses are approved by HUD\*, in ANSI's Standards Action and in other media designed to reach directly and materially affected interests; or in both. The notice shall describe the purpose of the meeting and shall identify a readily available source for further information. An agenda shall be available and shall be published or distributed in advance of the meeting, or both, to members and to others expressing interest. The administering organization may maintain a mailing list of other interests.

#### **A.7.1.1 Closed Meetings**

Meetings of the MHCC will be closed only in limited circumstances and in accordance with applicable law. In addition, requests for closed meetings must be approved by the Secretary of HUD in writing in accordance with 5 U.S.C.A. App. 2 § 10(d) not later than 30 days in advance of the session. Where the DFO has determined in advance that discussions during a Consensus Committee meeting will involve matters about which public disclosure would be harmful to the interests of the Government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act (GISA), will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO will order such discussion to cease and will schedule it for closed session. Notices of closed meetings will be published in the Federal Register at least 15 calendar days in advance. Should the MHCC conduct all or part of any meetings in closed session, it shall issue a report at least annually setting forth a summary of its activities and such related

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matters as would be informative to the public consistent with GISA policy.

### **A.7.2 Quorum**

A majority of the voting members of the MHCC shall constitute a quorum for conducting business at a meeting. If a quorum is not present, actions shall only be taken subject to subsequent confirmation by letter ballot or recorded vote at a future meeting.

## **A.8 Voting**

### **A.8.1 Single vote**

No member of the MHCC shall have more than one vote.

### **A.8.2 Actions requiring approval by a majority**

The following actions require approval by a majority of the membership of the MHCC either at a meeting or by letter ballot:

- a) Selection of the MHCC chair and vice chair when delegated by the secretary of HUD;
- b) Recommending formation of a subcommittee, including its procedures, scope, and duties;
- c) Recommending disbandment of subcommittees.

### **A.8.3 Actions requiring approval by a two-thirds margin**

The following actions of the MHCC require a letter ballot or an equivalent formal recorded vote at a meeting and approval of two-thirds of the MHCC members eligible to vote:

- a) Adoption of MHCC bylaws, or revisions thereof.
- b) Approval of proposed, manufactured home model installation standards, new or revised procedural or enforcement regulations, or new or revised interpretative bulletins;
- c) Elimination of procedural or enforcement regulations or interpretative bulletins.
- d) Providing comments to the secretary.
- e) Approval of a proposed dispute resolution program.

**A.8.4 Voting on Standards** Submission of proposed revised manufactured home construction and safety standards requires approval of two-thirds of the members eligible to vote.

### **A.8.5 Voting at Meetings**

The requirements of A.8.2, A.8.3 and A.8.4 shall also apply to votes taken at meetings of the MHCC except, for actions other than approval of proposed revised manufactured home construction and safety standards, the approval margins shall be based on the number of voting MHCC members present.

### **A.8.6 Letter Ballot Positions**

For letter ballots, each voting member shall vote one of the following positions:

- a) Affirmative;
- b) Affirmative, with comment;
- c) Negative, with reasons (the reasons for a negative vote shall be given and if possible should include specific wording or actions that would resolve the objection);
- d) Abstain, with reasons.

#### **A.8.6.1 Voting period for Letter Ballots**

The voting period for letter ballots shall end five weeks from the date of issue or as soon as all final votes are complete. An extension of time may be granted at the chair's option, when warranted. The following procedure, a) through d), shall be followed.

- a) Letter ballots shall be prepared and distributed to the MHCC members not later than three (3) weeks from the date said ballot is authorized in accordance with these bylaws.
- b) Initial letter ballots shall be returned within two (2) weeks of distribution.
- c) Initial ballot results with comments and reasons for voting negative or abstaining shall be circulated to the MHCC members for review within one week of the close of the initial two (2) week period. The members shall be given the opportunity to revise their initial vote(s) for a period of two (2) weeks. At the end of this period the vote(s) shall be considered final.
- d) Ballots shall be accepted up to the time votes are considered final.

A follow-up letter requesting immediate return of the ballot shall be sent, as appropriate, to members whose votes have not been received within ten working days before the ballot closes.

#### **A.8.6.2 Authorization of letter ballots**

A letter ballot shall be authorized by any of the following:

- a) Majority vote of those present at a MHCC meeting;
- b) The chair;
- c) The executive committee (if one exists).

#### **A.8.6.3 Other review**

Approved actions under A.8.3 shall be transmitted to the Secretary of HUD for review and action.

The administering organization shall determine whether listing of proposed actions shall be concurrent with the final MHCC letter ballot and whether announcement in other suitable media is appropriate as long as any

publication expenses are approved by HUD\*.

Views and objections resulting from the above shall be dealt with in accordance with A.8.6.4. Any substantive change (see clause 1.2.10 of the ANSI Procedures) shall be relisted in accordance with A.8.6.

#### **A.8.6.4 Disposition of views and objections**

When the balloting has been closed, the secretary shall forward the ballot tally to the chair of the MHCC or, if appropriate, of the subcommittee; the chair shall determine whether the expressed views and objections shall be considered by correspondence or at a meeting.

Prompt consideration shall be given to the written views and objections of all participants, including those commenting on either the Federal Register announcement or public comment listing in Standards Action.

#### **A.8.6.5 . Public review and MHCC comments**

In connection with an objection articulated during a public comment period, or submitted in connection with a letter ballot, an effort to resolve all expressed objections shall be made, and, to the extent possible within funding approved by HUD\*\*, each objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons therefor.

When this process is completed in accordance with the written procedures of the MHCC, the administering organization may submit to the MHCC for its consideration any comments received subsequent to the closing of the public review and comment period.

#### **A.8.7 Report of final result**

The final result of the voting shall be reported, by interest categories, to the MHCC.

#### **A.9 Submittal of Proposal or Comments**

Upon completion of the procedures for voting, and disposition of views and objections, the proposal(s) or comment(s) shall be submitted to the Secretary of HUD by the administering organization.

The information supplied to HUD by the administering organization shall include, for proposed revised standards, all relevant material required by the MHIA, and, for other actions, all relevant material required by ANSI as outlined in clause 2.2 of the ANSI Procedures. If the administering organization does not submit the proposal(s) or comment(s) to HUD within a reasonable period of time, any member(s) of the MHCC may refer the matter in writing to HUD or the DFO.

#### **A.10 Termination of MHCC**

The MHCC may only be terminated by the US Congress.

#### **A.11 Communications**

Formal correspondence of the MHCC shall be on "MHCC correspondence" letterhead.

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\*\* Anything involving a decision to expend appropriated moneys to specific activities must be subject to HUD approval. The AO acts as a secretariat to the consensus committee and is not authorized to exercise operational authority.

**A.11.1 Formal internal communication**

Correspondence of subcommittees or between working groups shall be sent to all affected subcommittee chairs, the administering organization, the DFO, and all members of the MHCC.

**A.11.2 External communication**

Requests for action by the MHCC shall be directed to the administering organization and HUD. All replies to such requests shall be made through the administering organization.

**A.12 Parliamentary procedures**

On questions of parliamentary procedure not covered in these procedures, the Federal Advisory Committee Management procedures and Robert's Rules of Order (latest edition) may be used to expedite due process.