

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

MOBILE HOME PARK ACT DISPUTE RESOLUTION & ENFORCEMENT PROGRAM

8 CCR 1302-15

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Rule 1. Definitions.

In addition to the definitions provided in sections 38-12-201.5 and 38-12-1103, C.R.S., the following definitions apply to enforcement of the Act (Part 2 of Article 12 of Title 38) and the Program (Part 11 of Article 12 of Title 38):

1.1 "Mobile home" as defined pursuant to section 38-12-201.5(2), C.R.S., includes a factory-built residential structure (modular home) if it is situated in a mobile home park, any pre-1976 mobile home, any manufactured home constructed to the federal standards on or after June 15, 1976, or any combination of the three.

1.2 "Mobile home park" as defined pursuant to section 38-12-201.5(3), C.R.S., does not include a park that rents lots to camper coaches, camper trailers, fifth wheel trailers, motor homes, recreational park trailers, recreational vehicles, travel trailers, or truck campers, unless it also rents space to five (5) or more occupied "mobile homes" as defined by section 38-12-201.5(2), C.R.S., and Rule 1.1 of these rules.

1.3 "Mobile home subdivision" or "manufactured home subdivision" as used in section 38-12-201.5(3), C.R.S., means any parcel of land that is divided into two or more parcels, separate interests, or interests in common, where each parcel is owned by separate owners who own both the mobile home and the land underneath the mobile home.

1.3.1 Pursuant to 38-12-201.5(3), C.R.S., "mobile home park" does not include property zoned by a local government for manufactured home subdivisions.

1.3.2 When a local government does not have mobile home subdivision zoning, the Division will look at how the parcel of land is being used and apply the definition of "mobile home subdivision" in Rule 1.3 of these rules to determine whether a parcel of land is a mobile home park.

1.3.4 "Retaliatory action(s)" as used in section 38-12-1105(13), C.R.S., means threats, acts of harassment, or acts of harm or injury that may include, but are not limited to the following:

- A. Increasing rent or decreasing services in a selective, unequal, or non-uniform way;
- B. Issuing mandatory fees in a selective, unequal, or non-uniform way;
- C. Issuing warnings/citations/fines that are not justified;
- D. Serving notices or threatening eviction when not justified;
- E. Billing for something not previously billed in a selective, unequal, or non-uniform way;

- F. Creating or modifying rules/requirements that are not reasonably related to legitimate purposes;
- G. Selectively enforcing rules/requirements;
- H. Conducting management visits that are unjustified;
- I. Surveillance targeted at a complainant; or
- J. Reporting or publicizing damaging information about a complainant that is not germane toward determining park rule violations, or violations of the Act or Program.

Rule 2. Registration Requirements

Pursuant to section 38-12-1106, C.R.S., all mobile home parks in the state of Colorado are required to register with the Division.

- 2.1 Eligibility - a mobile home park as defined in section 38-12-201.5(3), C.R.S., is required to be registered.
 - 2.1.1 A park must include at a minimum five (5) or more occupied mobile homes.
- 2.2 Initial Registration – for existing mobile home parks must occur by February 1, 2020, and for new mobile home parks must occur within three (3) months of becoming eligible pursuant to Rule 2.1 of these rules.
 - 2.2.1 A “landlord” as defined pursuant to section 38-12-201.5(1.5), C.R.S., and who is designated as the primary contact for the mobile home park must file a registration form including full payment on behalf of the park with the Division.
- 2.3 Required Information – as part of the registration process, a mobile home park must provide the following information pursuant to section 38-12-1106(7), C.R.S.:
 - A. The name, mailing address, phone number, and email address (if available) of the landlord designated as the primary contact for the mobile home park;
 - B. The name, physical address, phone number, and website address (if available) of the mobile home park;
 - C. The physical address of each mobile home;
 - D. Identify which homes are independently owned by a home owner versus any owned by the mobile home park;
 - E. The total number of lots within the mobile home park;
 - F. The total number of occupied mobile homes; and
 - G. The total number of vacant mobile homes.
- 2.4 Expiration Date – will be one year from the first day of the following month after registration approval by Division staff, i.e. February 1, 2021 if approved in January of 2020, and must be renewed by that date if still operating as a mobile home park.

- 2.5 If any of the provided information required in Rule 2.3.A and Rule 2.3.B of these rules changes between the time of initial registration and renewal, or between registration renewals, the landlord is required to notify the Division within thirty (30) calendar days of the change to ensure timely delivery of registration renewal updates.
- 2.6 Fee - \$24.00 must be paid by the mobile home park for each mobile home independently owned on rented land within the park.
- 2.6.1 A landlord may charge a home owner not more than half of this fee annually. If the landlord attempts to recoup up to 50% of this fee from the home owner, ~~he/she/the~~ landlord must do so in a clear and consistent manner within one (1) year of paying the registration fee to the Division.

Rule 3. Dispute Resolution and Enforcement

- 3.1 If a complaint is filed in writing pursuant to section 38-12-1105(1), C.R.S., it must be transmitted to the Division on a Division approved form or containing substantially the same information as is found on the Division form.
- 3.2 A home owner acting in the capacity of a “complainant” as defined in section 38-12-1103(2), C.R.S., may file a complaint on behalf of ~~his/her/their~~ tenant if ~~he/she-isthey are~~ leasing ~~his/her/their~~ mobile home and the renter has experienced and communicated an alleged violation of the Act or Program to the home owner, provided that the home owner has made it clear in the complaint that it is being filed in a representative capacity.
- 3.3 A landlord’s actions will be presumed retaliatory if the mobile home park takes an action, including, but not limited to the ones listed in Rule 1.~~4-4~~ of these rules, and takes such action between the time the complainant has communicated an interest in filing a complaint with the Division up until six (6) months after the Division has closed the complaint. The Division may impose a penalty under section 38-12-1105(13), C.R.S., and Rule 4.~~4-~~ of these rules unless the landlord rebuts the presumption with sufficient evidence of a non-retaliatory purpose. This presumption will not apply to cases where the landlord addresses nonpayment of rent pursuant to section 38-12-204, C.R.S.
- 3.4 A landlord found to be in violation of the Act or Program cannot pass on the costs of any remedial action(s), including penalties, fines, or fees, required by the Division or an Administrative Law Judge in a Final Agency Order to any home owner.
- 3.5 The following deadlines are in calendar days:
- A. Respond to a subpoena within fourteen (14) days pursuant to section 38-12-1105(3)(a), C.R.S.
 - B. Comply with the requirements of a Notice of Violation within seven (7) days of it becoming a Final Agency Order pursuant to section 38-12-1105(5), C.R.S.
 - C. A landlord must notify the Division within thirty (30) days of a change in the ownership of the mobile home park pursuant to section 38-12-1106(5), C.R.S.
- ~~3.6 Park rules and regulations must be in writing and uniform in compliance with section 38-12-214, C.R.S., and established in the written lease or rental agreement as required pursuant to sections 38-12-202(1)(a), 38-12-203(1)(c), and 38-12-213, C.R.S., prior to the commencement of a tenancy or other lease or rental occupancy of space in a mobile home park.~~

~~3.7 — Trees located on the “premises” as defined by section 38-12-201.5(5), C.R.S., are presumed to be the responsibility of the landlord if they were not planted by the home owner, including any expense related to the maintenance of them (e.g. removal of dead wood) pursuant to sections 38-12-212.3(1)(a)(III) and 38-12-212.3(2), C.R.S. However, the home owner may agree in his/her rental agreement to take on the responsibility of any routine maintenance (i.e. simple trimming that does not impact health/safety) of trees located on the lot he/she is renting from the park.~~

3.68 Pursuant to section 24-72-204(2)(a)(IX), C.R.S., any records of ongoing administrative investigations conducted by the Division of Housing in furtherance of its statutory authority to protect the public health, welfare, or safety are not subject to a request filed under the Colorado Open Records Act (CORA) during the pendency of the investigation and dispute resolution process.

3.7 Pursuant to section 38-12-1105(1), C.R.S., two or more home owners may file a complaint against the landlord of their mobile home park with the Division alleging the same violation(s) of the Act or Program. A landlord may also file a complaint against two or more home owners in their mobile home park with the Division alleging the same violation(s) of the Act or Program.

Rule 4. Penalties

The following criteria will be applied when assessing an amount of a monetary penalty authorized by statute for violating either the Act or Program:

- Severity of the violation;
- Type of violation;
- Duration of the violation;
- Whether the person/entity committed repeated violations; and
- Any other mitigating or aggravating circumstances, including impact on others, cooperation with the investigation process, and sufficiency to deter future violations.

4.1 Pursuant to section 38-12-1106(9), C.R.S., a landlord may be subject to a delinquency fee of up to \$5,000 for failing to register or renew a registration by the deadline or expiration date.

- A. First offense, may be fined up to \$3,000.
- B. Second offense, may be fined up to \$4,000.
- C. Third or subsequent offense, may be fined up to \$5,000.

4.2 Pursuant to section 38-12-1104(2)(d), C.R.S., a landlord may be subject to a penalty if ~~he/she~~ the landlord has not appropriately posted the required Notice described in section 38-12-1104(2)(a), C.R.S., in the locations provided in section 38-12-1104(2)(c), C.R.S., and Rule 5 of these rules.

- A. First offense, may be fined up to \$3,000.
- B. Second offense, may be fined up to \$4,000.
- C. Third or subsequent offense, may be fined up to \$5,000.

4.3 Pursuant to section 38-12-1105(5), C.R.S., a home owner or landlord may be subject up to a maximum penalty of \$5,000 for failure to comply with a Notice of Violation within seven (7)

calendar days of it becoming a Final Agency Order, per violation per day, for each day that a violation remains uncorrected.

- A. First offense, may be fined up to \$3,000, per violation per day.
- B. Second offense, may be fined up to \$4,000, per violation per day.
- C. Third or subsequent offense, may be fined up to \$5,000, per violation per day.

4.4 Pursuant to section 38-12-1105(13), C.R.S., a landlord may not take any “retaliatory action(s)” as defined in Rule ~~4-31.4~~ and further clarified in Rule 3.3 of these rules against a home owner for expressing an intention to file a complaint under the Program or filing a complaint under the Program. A landlord may be fined up to \$10,000 if the Division determines ~~he/she/they~~ retaliated against the home owner.

- A. First offense, may be fined up to \$5,000.
- B. Second offense, may be fined up to \$7,500.
- C. Third or subsequent offense, may be fined up to \$10,000.

4.5 In addition to the administrative appeal process pursuant to section 38-12-1105(7)(a)(II), C.R.S.:

4.5.1 A landlord may request an administrative hearing before an administrative law judge to contest:

- A. A delinquency fee for failing to register or renew a registration by the deadline or expiration date, imposed under section 38-12-1106(9), C.R.S., and Rule 4.1 of these rules;
- B. A penalty for failure to appropriately post the Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in the locations provided in section 38-12-1104(2)(c), C.R.S., and Rule 5 of these rules, imposed under section 38-12-1104(2)(d), C.R.S., and Rule 4.2 of these rules; and
- C. A penalty for taking any “retaliatory action(s)” as defined in Rule 1.4 and further clarified in Rule 3.3 of these rules against a home owner for expressing an intention to file a complaint under the Program or filing a complaint under the Program, imposed under section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules.

4.5.2 If a landlord requests an administrative hearing pursuant to Rule 4.5.1 of these rules, the landlord must file the request within fifteen (15) business days of receipt of written notice of the penalty. If an administrative hearing is not requested within this time period, the notice of penalty constitutes a final agency order of the Division.

4.5.3 If the Division receives a timely request for an administrative hearing pursuant to Rule 4.5.2 of these rules, the landlord is entitled to a hearing before and initial decision by an administrative law judge in conformity with section 24-4-105, C.R.S.

4.5.4 The landlord may appeal an initial decision entered by an administrative law judge by following the procedures outlined in sections 24-4-105(14)(a)(II), (14)(b)(III), and 15(a), C.R.S.

4.5.5 Pursuant to section 24-4-105(14)(c), failure to make an appeal in conformity with sections 24-4-105(14)(a)(II), (14)(b)(III), and 15(a), C.R.S., and Rule 4.5.4 of these rules shall result in a waiver of the right to judicial review of the final order of such agency, unless that portion of such order subject to exception is different from the content of the initial decision.

Rule 5. Notice Requirements

- 5.1 A landlord must post and maintain the Home Owner Notice provided by the Division pursuant to section 38-12-1104(2)(a), C.R.S., in every community hall or recreational hall (e.g. clubhouse) in the manner required in section 38-12-1104(2)(c), C.R.S., and in a form authorized by the Division within one (1) week of receiving the Home Owner Notice from the Division. A landlord must also provide the Home Owner Notice in an accessible format for any home owner with disabilities (e.g. Braille or audio recording) upon request. If no community hall or recreational hall exists, then the Home Owner Notice must be posted and maintained at the rent drop box, online rent payment portal, or another common area within the premises, in a clearly visible and accessible location.
- 5.2 In addition to complying with Rules 5.1 and 5.3 of these rules, the landlord must provide a copy of the required Home Owner Notice to each individual home owner within one (1) week of receiving the Home Owner Notice from the Division and on an annual basis, by posting it on the door of every home owner's mobile home or by mailing it to each mobile home owner at either the address provided in the rental agreement or the most recent mailing address of the home owner on file with the landlord.
- 5.3 In addition to complying with Rules 5.1 and 5.2 of these rules, ~~T~~the landlord must also provide a copy of the required Home Owner Notice with each new/~~renewed~~ lease executed with a home owner.

Rule 6. Park Rules and Regulations

- 6.1 Park rules and regulations must be in writing and uniform in compliance with section 38-12-214, C.R.S., and established in the written lease or rental agreement as required pursuant to sections 38-12-202(1)(a), 38-12-203(1)(c), and 38-12-213, C.R.S., prior to the commencement of a tenancy or other lease or rental occupancy of space in a mobile home park.
- 6.2 Nothing in Rule 6 of these rules shall be construed as restricting a landlord, their agent, or a property manager from requiring a resident to comply with reasonable rules and regulations or terms of the rental agreement and any covenants binding upon the landlord or resident, including covenants running with the land which pertain to the cleanliness of such resident's lot and routine lawn and yard maintenance, exclusive of major landscaping projects.
- 6.3 Trees located on the "premises" as defined by section 38-12-201.5(5), C.R.S., are presumed to be the responsibility of the landlord if they were not planted by the home owner, including any expense related to the maintenance of them (e.g. removal of dead wood) pursuant to sections 38-12-212.3(1)(a)(III) and 38-12-212.3(2), C.R.S. However, the home owner may agree in their rental agreement to take on the responsibility of any routine maintenance (i.e. simple trimming that does not impact health/safety) of trees located on the lot they are renting from the park.
- 6.4 The landlord is responsible for the construction, maintenance, or removal of any fence located on the "premises" as defined by section 38-12-201.5(5), C.R.S., including any expense related to such construction, maintenance, or removal, unless a home owner built, damaged, or removed the fence in violation of a lawful park rule or regulation.
- 6.5 If part or all of a fence, accessory building, or accessory structure (collectively, "structures") needs to be temporarily moved or taken down for the landlord to complete required maintenance

or repairs on any sewer lines, water lines, utility service lines, or related connections, accessory buildings or structures, or premises that the landlord is required to maintain and repair pursuant to section 38-12-212.3, C.R.S., or any trees located on the premises pursuant to Rule 6.3, the following applies:

A. If the landlord can reasonably complete the required maintenance and repairs without asking the home owner to move, or moving, any fence, accessory building, or accessory structure, the landlord shall complete the required maintenance and repairs without these structures being moved;

B. If the landlord cannot reasonably complete the required maintenance and repairs without part or all of a fence or accessory building or structure being moved, the home owner is responsible for temporarily moving or taking down part or all of any structure(s) that the home owner erected and for paying the cost thereof. However, if a fence or accessory building or structure was not erected by the current home owner, the landlord is responsible for temporarily moving or taking down part or all of the structure(s) and for paying the cost thereof.

C. If a part or all of a fence or accessory building or structure needs to be moved to give the landlord access to perform required maintenance or repairs, the landlord shall give a minimum of two (2) weeks' notice to a home owner of the planned maintenance or repairs, unless conditions are such that providing the notice would result in property damage, health, or safety concerns or when conditions otherwise require emergency repair.

6.6 Pursuant to section 38-12-203(1)(c), C.R.S., when the mobile home is owned by a person other than the owner of the mobile home park, the mobile home is a separate unit of ownership, and regulations that are adopted subsequent to the unit location in the park without the consent of the home owner and that place restrictions or requirements on that separate unit are presumed to be unreasonable.

6.6.1 The types of park rules and regulations, when adopted without the consent of the home owner and after the unit location in the park, that are presumed to be unreasonable under section 38-12-203(1)(c), C.R.S., and this Rule 6.6 include, but are not limited to:

A. Requirements to paint or not paint the mobile home a certain color(s);

B. Requirements to paint or not paint the skirting on the mobile home a certain color(s);

C. Requirements to restore the mobile home to like-new condition, to be distinguished from requirements to maintain the home in a safe condition;

D. Changes to the number or type of existing pets, unless otherwise specified in the lease or required to obtain insurance coverage for the mobile home park; and

E. Restrictions on "Beware of Dog" or "No Trespassing" type signs when posted on or in the mobile home.

6.6.2 Rule 6.6.1 of these rules does not apply in situations where a park rule or regulation is required by law, including local government ordinances or resolutions, or the restriction or requirement was adopted to address a safety risk to the home owner or other tenants.

6.6.3 Rule 6.6.1 of these rules does not apply in situations where a park rule or regulation is enforceable under section 38-12-214(1), C.R.S., and the home owner consented to the park rule or regulation in their initial lease or future amendment.

6.6.4 The presumption under section 38-12-203(1)(c), C.R.S., and this Rule 6.6 that certain types of park rules and regulations, when adopted without the consent of the home owner and after the unit location in the park, are unreasonable can be rebutted with sufficient evidence by the landlord.

6.6.5 Pursuant to section 38-12-203(1)(c), C.R.S., nothing in this Rule 6.6 shall prohibit a mobile home park owner from requiring compliance with current park unit regulations at the time of sale or transfer of the mobile home to a new home owner. Transfer under section 38-12-203(1)(c), C.R.S., and this Rule 6.6.5 shall not include transfer to a co-owner pursuant to death or divorce or to a new co-owner pursuant to marriage.

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