ADMINISTRATIVE RULES

Office of Regulatory Oversight
Mobile Home Park Act Dispute Resolution & Enforcement Program

November 2019

COLORADO
Department of Local Affairs
Division of Housing

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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 "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 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 tenant if he/she is leasing his/her 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 1.1 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.

3.8 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.

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 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 homeowner 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, <u>per violation per day</u>, 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 1.3 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 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.

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 or another common area within the premises, in a clearly visible and accessible location.

5.2 In addition to complying with Rule 5.1 or 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.

5.3 The landlord must also provide a copy of the required Home Owner Notice with each new/renewed lease executed with a home owner.

Adopted on November 8, 2019, to implement House Bill 19-1309 effective December 30, 2019.

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