

## **DEPARTMENT OF LOCAL AFFAIRS**

### **Division of Housing**

#### **8 CCR 1302-15**

#### **Mobile Home Park Act Dispute Resolution & Enforcement Program**

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

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### **AUTHORITY**

Pursuant to section 38-12-1104(2)(j), C.R.S.

### **SCOPE AND PURPOSE**

To implement and clarify the Mobile Home Park Act, Title 38, Article 12, Part 2 of the Colorado Revised Statutes (C.R.S.), and the Mobile Home Park Act Dispute Resolution And Enforcement Program, Title 38, Article 12, Part 11, C.R.S., pursuant to statutory authority and changes made through House Bill 19-1309 Creating the Mobile Home Park Act Dispute Resolution and Enforcement Program (effective May 23, 2019), HB20-1196 Mobile Home Park Act Updates (effective June 30, 2020), HB20-1201 Mobile Home Park Residents Opportunity to Purchase (effective June 30, 2020), and HB21-1121 Residential Tenancy Procedures (effective June 25, 2021).

### **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 "Consecutive occupancy" as used in section 38-12-204(3), C.R.S., means the consecutive period of time that:
  - A. The tenant(s) have a rental agreement with the management or landlord for occupancy of the mobile home space;
  - B. The management or landlord is receiving rent payments for the mobile home space from the tenant(s) or a third party; or
  - C. The tenant(s) is residing in the mobile home or mobile home space after establishing lawful tenancy by signing a rental agreement pursuant or paying rent pursuant to Rule 1.1(A) or (B) of these rules.
- 1.2 "Mobile home" as defined in section 38-12-201.5(5), C.R.S., includes a factory-built residential structure (modular home) if it is situated in a mobile home park and has all of the characteristics of a "mobile home" described in section 38-12-201.5(5)(a), C.R.S. (including being built on a permanent chassis); any pre-1976 mobile home; and any manufactured home constructed to the federal standards on or after June 15, 1976.
- 1.3 "Mobile home park" as defined in section 38-12-201.5(6), C.R.S. –

- A. Includes a park that is owned by a government entity, federally recognized tax-exempt charitable organization registered with the Colorado Secretary of State, or a Community Land Trust, if it has all of the characteristics of a “mobile home park” described in section 38-12-201.5(6), C.R.S. (including being operated for the pecuniary benefit of the owner of the parcel of land or the owner’s agents, lessees, or assignees).
  - B. 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 in section 38-12-201.5(5), C.R.S., and Rule 1.1 of these rules.
- 1.4 “Mobile home subdivision” or “manufactured home subdivision” as used in section 38-12-201.5(6), 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 or interest is owned by separate owners who own both the mobile home and the land underneath the mobile home, except when the same owner owns two or more subdivided parcels or interests that are collectively used for the continuous accommodation of five (5) or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, their agents, lessees, or assignees.
  - 1.4.1 Pursuant to section 38-12-201.5(6), C.R.S., “mobile home park” does not include property zoned by a local government for manufactured home subdivisions or mobile home subdivisions.
- 1.5 “New mobile home park or manufactured housing community development” as used in section 38-12-215(1)-(2), C.R.S., and “new park” as used in section 38-12-1106(9), C.R.S., do not include:
  - A. The addition of a “mobile home space(s),” as defined in section 38-12-201.5(7), C.R.S., to an existing mobile home park, as defined in section 38-12-201.5(6), C.R.S., and Rule 1.2 of these rules;
  - B. The sale, transfer, or conveyance of an existing mobile home park to a new owner(s); nor
  - C. The merger of two or more existing mobile home parks.
- 1.6 “Occupied mobile homes” as used in sections 38-12-201.5(6) and 38-12-217(4)(c), C.R.S., and Rules 1.2(B), 1.3, and 2.2(G) of these rules means mobile homes for which the management or landlord:
  - A. Has a rental agreement with a tenant for the home or lot; or
  - B. Is receiving rent payments for the home or lot from a tenant or a third party.
- 1.7 “Rent” as defined in section 38-12-201.5(9), C.R.S., does not include attorney fees.
- 1.8 “Vacant mobile homes” as used in Rule 2.2(H) of these rules means mobile homes for which the management or landlord:
  - A. Does not have a rental agreement with a tenant for the home or lot; and
  - B. Is not receiving rent payments for the home or lot from a tenant or a third party.

## **RULE 2. REGISTRATION REQUIREMENTS**

- 2.1 Initial Registration – for new mobile home parks must occur within three (3) months of the availability of five (5) or more mobile home lots for rent within a new park.
- 2.1.1 The “management” or “landlord,” as defined in section 38-12-201.5(3), C.R.S., 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.
- 2.2 Required Information – as part of the registration process, a mobile home park must provide the following information in addition to the information required under section 38-12-1106(7), C.R.S.:
- A. The physical address, phone number, and website address (if any) of the mobile home park;
  - B. The business name (if any), business contact name or owner name, mailing address, phone number, and email address (if any) of the owner of the mobile home park;
  - C. The business name (if any), business contact name or manager name, mailing address, phone number, and email address (if any) of the management of the mobile home park, if different from the owner of the mobile home park;
  - D. Identify which individual or business – the park owner or management – is designated as the primary contact for the mobile home park;
  - E. The physical address of each mobile home;
  - F. Identify which homes a tenant home owner independently owns, and which homes the mobile home park landlord owns;
  - G. The total number of occupied mobile homes;
  - H. The total number of vacant mobile homes;
  - I. If the park is owned by a business entity, whether that business is owned by another business entity (i.e. a parent company);
  - J. If the park is managed by a business entity, whether that business is owned by another business entity (i.e. a parent company);
  - K. If the business entity that owns the park is owned by another business entity (i.e. a parent company), the business name, first and last name of a contact person, mailing address, phone number, and email address (if any) for the parent company;
  - L. If the business entity that manages the park is owned by another business entity (i.e. a parent company), the business name, first and last name of a contact person, mailing address, phone number, and email address (if any) for the parent company;
  - M. If the park does business under any other name(s), the “Doing Business As (DBA)” name(s) and the Secretary of State Identification Number(s) for that DBA(s) (if any); and
  - N. The signature of a landlord, as defined in section 38-12-201.5(3), C.R.S., filing for registration or registration renewal for the mobile home park pursuant to section 38-12-1106(4), C.R.S.

- 2.3 Complete, Accurate, and Truthful Information Required – initial registration and registration renewal forms filed pursuant to section 38-12-1106(4), C.R.S., and Rules 2.1, 2.2, and 2.5 of these rules must be complete, accurate, and truthful and include all attachments and supplementation information. The Division may not accept incomplete forms.
- 2.4 Registration Delinquency Fee – landlords who do not submit complete, accurate, and truthful information on their initial registration or registration renewal forms may be subject to a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules.
- 2.5 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.
- 2.6 If any of the provided information required in Rules 2.2(A)-(D) of these rules changes between the time of initial registration and renewal, or between registration renewals, the management or landlord is required to notify the Division within thirty (30) calendar days of the change to ensure timely delivery of Program communications.
- 2.7 Fee - Pursuant to section 38-12-1106(8), C.R.S., for the 2021 and 2022 calendar years, an annual registration fee of \$24.00 must be paid by the mobile home park for each mobile home independently owned by a tenant home owner on rented land within the park.
  - 2.7.1 Pursuant to section 38-12-1106(8), C.R.S., the management or landlord may charge a home owner not more than half of the registration fee annually. If the management or landlord attempts to recoup up to 50 percent of this fee from the home owner, the management or landlord must:
    - A. Notify the home owner in writing at least 60 calendar days before the management or landlord expects the home owner to pay the additional fee, or a longer time period if required by the home owner's lease; and
    - B. 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 Complaints filed with the Division pursuant to section 38-12-1105(1), C.R.S., must be made in writing on a Division-approved form.
  - 3.1.1 The Division will make reasonable accommodations to Rule 3.1 of these rules when such accommodations may be necessary to afford a person with a disability an equal opportunity to file a complaint with the Division.
- 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:
  - A. On behalf of their tenant, if they are leasing 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; or
  - B. Alleging a violation(s) of section 38-12-217, C.R.S., by the previous owner of the mobile home park.

- 3.3 Before imposing a penalty under section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules, the Division will give the management or landlord an opportunity to rebut a presumption of retaliation with sufficient evidence of a nonretaliatory purpose pursuant to section 38-12-212.5(4), C.R.S.
- 3.3.1 As used in section 38-12-212.5(4), C.R.S. and Rule 3.3 of these rules, “sufficient evidence” means a preponderance of the evidence.
- 3.3.2 The Division will consider as sufficient evidence of a nonretaliatory purpose, when provided by the management or landlord in response to a retaliation complaint, evidence including, but not limited to:
- A. In response to an allegation of retaliatory action pursuant to section 38-12-201.5(12)(i), C.R.S., evidence that the management is asking all tenants on a particular rental agreement to update a specific section(s) of their existing rental agreement, to bring that section(s) of the rental agreement into compliance with federal, state, or local law.
  - B. In response to an allegation of retaliatory action pursuant to section 38-12-201.5(12)(k), C.R.S., evidence that:
    - i. The management or landlord reported, to an appropriate government agency, home owner conduct on park premises that materially harmed or threatened real or personal property or the health, safety, or welfare of one or more individuals or animals, including pet animals; or
    - ii. The information reported to a government agency was, to the management or landlord’s knowledge, truthful and relevant to an ongoing investigation by that federal, state, or local government agency.
- 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 A landlord shall not pass on the costs of any attorney fees, witness fees, or other legal fees incurred by a landlord in responding to a complaint filed pursuant to section 38-12-1105(1), C.R.S., or an investigation by the Division of an alleged violation of the Program (Title 38, Article 12, Part 11, C.R.S.) to any home owner, notwithstanding any language to the contrary in a rental agreement.
- 3.6 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.
- 3.7 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.

- 3.8 Pursuant to section 38-12-1105(1), C.R.S., two or more home owners may file a complaint against the management or landlord of their mobile home park with the Division alleging similar or related violations of the Act or Program. The management or landlord of a mobile home park may also file a complaint against two or more home owners in the same park with the Division alleging similar or related violations of the Act or Program.
- 3.9 When filing a complaint with the Division under section 38-12-1105(1), C.R.S., aggrieved parties are not required to allege what specific statutory section(s) of the Act or Program have been violated. The Division will apply the appropriate reference(s) to statute or rule upon review of the information provided in the complaint form and any additional information provided to the Division in connection with the complaint.
- 3.10 Pursuant to section 38-12-214(3)(a), C.R.S., when a home owner files a complaint with the Division within sixty (60) days after receiving a written notice of the management's intent to add or amend any written rule or regulation, alleging that a new or amended park rule or regulation will increase a cost to the home owner in an amount that equals or exceeds ten percent of the home owner's monthly rent obligation:
- 3.10.1 The Division will notify the management of the complaint and the specific rule(s), regulation(s), or amendment(s) being challenged in the complaint.
- 3.10.2 The management shall not engage in any action to enforce the challenged rule(s), regulation(s), or amendment(s) against any resident in the park that is the subject of the complaint, unless and until the parties to the complaint reach an agreement or the dispute resolution process concludes as described in section 38-12-214(3)(a), C.R.S.
- 3.10.3 Once the management receives notice from the Division of a complaint described in Rule 3.10 of these rules, the management shall notify all residents in the park that is the subject of the complaint in writing within fourteen (14) calendar days that the management will not enforce the challenged rule(s), regulation(s), or amendment(s) until further notice.
- 3.10.4 Unless otherwise prohibited by law, the management may enforce the other new or amended rules or regulations against residents that are not the subject of any complaint(s) described in Rule 3.10 of these rules, after the sixty (60) day written notice period expires.
- 3.11 A landlord acting in the capacity of a "complainant," as defined in section 38-12-1103(2), C.R.S., may file a complaint with the Division alleging that a home owner does not have and will not sign a written rental agreement in violation of section 38-12-213(2), C.R.S.
- 3.11.1 When investigating a complaint alleging that a home owner has not signed a written rental agreement in violation of section 38-12-213(2), C.R.S., the Division will consider:
- A. Whether the current or previous management provided a written rental agreement to the home owner prior to the rental or occupancy of a mobile home space or lot pursuant to section 38-12-213(1), C.R.S. (effective July 1, 1981); and
- B. Whether the written rental agreement the current management provided the home owner would make significant changes to the terms and conditions of the home owner's existing tenancy as described in subsections 38-12-213(1)(a)-(f), C.R.S. In evaluating what the terms and conditions of an existing tenancy are, the Division may consider the following including, but not limited to:

- i. Other written agreements between the management and the home owner;
  - ii. Verbal agreements between the management and the home owner; and
  - iii. Past charges to and payments made by the home owner as described in subsections 38-12-213(1)(a) and (f), C.R.S.
- 3.12 Pursuant to 38-12-204(3), C.R.S., effective June 25, 2021, when investigating a complaint alleging that a landlord has increased rent more than one time in any twelve-month period of consecutive occupancy by a tenant, the Division will compare the proposed or effective date of the current rent increase to the effective date of the tenant's last rent increase, even if the effective date of the tenant's last rent increase was before June 25, 2021.

#### **RULE 4. PENALTIES**

- 4.1 The Division will apply the following criteria when assessing a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules, a penalty for failure to appropriately post, maintain, or provide copies of the required Home Owner Notice pursuant to section 38-12-1104(2)(d), C.R.S., and Rule 4.3 of these rules, or a penalty for taking any "retaliatory action(s)" against a home owner pursuant to section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules:
  - A. The severity of the violation;
  - B. The type of violation;
  - C. The duration of the violation;
  - D. Whether the person or entity committed repeated violations;
  - E. Whether the person or entity submitted complete, accurate, and truthful information to the Division; and
  - F. Any other mitigating or aggravating circumstances, including the impact on others, cooperation with the investigation process, and the sufficiency of the penalty to deter future violations.
- 4.2 The Division will scale any registration delinquency fees assessed under section 38-12-1106(9), C.R.S., as follows:
  - 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 The Division will scale any penalties assessed under section 38-12-1104(2)(d), C.R.S., for failing to appropriately post, maintain, or provide copies of the required Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in the time frame, manner, and locations provided in section 38-12-1104(2)(c), C.R.S., and Rule 5 of these rules, as follows:
  - 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.
- 4.4 The Division will scale any penalties assessed under section 38-12-1105(13), C.R.S., for taking any “retaliatory action(s)” against a home owner, as defined in section 38-12-201.5(12), C.R.S., and further clarified in section 38-12-212.5, C.R.S., and Rule 3.3 of these rules, as follows:
- 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 The Division will scale any penalties assessed under section 38-12-1105(5), C.R.S., for failing to comply with the requirements of a Notice of Violation as follows:
- 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.

## **RULE 5. HOME OWNER NOTICE REQUIREMENTS**

- 5.1 Pursuant to section 38-12-1104(2)(c), C.R.S., the management or landlord must post and maintain the Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in a clearly visible and accessible location in every common area of the mobile home park, including every common resident mailbox location; every rent payment dropbox or other rent payment location; and every community hall, recreation hall, and clubhouse. The management or landlord must post this Home Owner Notice in a form authorized by the Division within seven (7) calendar days of receiving the Home Owner Notice from the Division.
- 5.1.1 If there is no common resident mailbox location, rent payment location, community hall, recreation hall, or clubhouse in the mobile home park, the management or landlord must post and maintain the Home Owner Notice, in a clearly visible and accessible location, at every location of another type of physical common area in the park. The types of common areas where the management or landlord may post and maintain the Home Owner Notice include, but are not limited to:
- A. Outside every management office;
  - B. At every park entrance; or
  - C. On the front of every dumpster provided for use by residents.
- 5.1.2 If there are no physical common areas in the park the same as or similar to those described in Rule 5.1 and 5.1.1 of these rules, the management or landlord may post and maintain the Home Owner Notice in a clearly visible and accessible location on the mobile home park’s online rent payment portal or other website intended for use by residents.
- 5.1.3 In addition to complying with Rules 5.1, 5.1.1, and 5.1.2 of these rules, the management or landlord must provide the Home Owner Notice in an accessible format for any home owner with disabilities (e.g. Braille or audio recording) upon request. These formats are available to the management or landlord from the Division by request.



- 5.2 In addition to complying with Rules 5.1 and 5.3 of these rules, the management or landlord must provide a copy of the required Home Owner Notice to each individual home owner within seven (7) calendar days 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 mailing it to each 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 management or landlord.
- 5.2.1 As an alternative to Rule 5.2, the management or landlord may email a copy of the Home Owner Notice to a home owner(s) only if the home owner has an email address on file with the management or landlord, and the management or landlord regularly uses that email address for other communications with the home owner, like rent payment or maintenance notices.
- 5.3 In addition to complying with Rules 5.1 and 5.2 of these rules, the management or landlord must also provide a copy of the required Home Owner Notice with each new lease executed with a home owner, and to each home owner after a change in park ownership.
- 5.4 In mobile home parks where the landlord owns all of the mobile homes and there are no independent mobile home owners with rights and responsibilities under the Act (Part 2 of Article 12 of Title 38) or Program (Part 11 of Article 12 of Title 38), the management or landlord is not required to post, maintain, or provide a copy of the Home Owner Notice pursuant to section 38-12-1104(2)(a), C.R.S., and Rules 5.1 to 5.3 of these rules.
- 5.4.1 However, once a mobile home park has one or more independently-owned mobile homes, the management or landlord is no longer exempt from the Home Owner Notice requirements under section 38-12-1104(2)(a), C.R.S., and Rules 5.1 to 5.3 of these rules, and must post and provide a copy of the required Home Owner Notice to each individual home owner within seven (7) calendar days of the change in ownership of the mobile home(s) in compliance with Rules 5.1 to 5.3 of these rules.

## **RULE 6. MANAGEMENT, LANDLORD, AND HOME OWNER RESPONSIBILITIES**

- 6.1 Trees – Notwithstanding the landlord's responsibility to maintain trees on the premises under section 38-12-212.3(2)(b)(IV), C.R.S., a home owner may enter a voluntary, written agreement with their landlord to take on the responsibility for simple trimming that does not affect the safety of park residents or their property of trees located on the lot they are renting from the park, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.
- 6.2 Fences – Fences located on the "premises" as defined in section 38-12-201.5(8), C.R.S., are presumed to be the responsibility of the landlord pursuant to section 38-12-212.3(2)(b), C.R.S., unless:
- A. The home owner built the fence;
  - B. The current home owner bought the fence from the previous home owner; or
  - C. The home owner agreed in their rental agreement to take on the responsibility for maintaining and repairing the fence and paying the cost thereof in their rental agreement, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.
- 6.3 Mobile Home Sales and Transfers – When the owner of a mobile home located in a mobile home park notifies the management or landlord of the park (whether as required by management or as a courtesy) that the owner intends to sell or transfer their mobile home in place, and the

management or landlord seeks to require compliance with park rules and regulations at the time of sale or transfer of the mobile home to a new owner pursuant to section 38-12-214(2), C.R.S., the management shall promptly provide the seller and any prospective buyer(s) of the mobile home a written list of the item(s) for which the management is requiring corrections at the time of sale or transfer. The written list shall include:

- A. Any and all items the management knows, or reasonably should have known, would require correction at the time of sale or transfer of the mobile home;
- B. A detailed description of each item; and
- C. A citation to the specific park rule or regulation that applies to each item on the list. Any park rule or regulation cited must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.

6.4 Limitations on Charges for Noncompliance – The following rules apply when the management intends to enter a mobile home space to ensure compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park pursuant to section 38-12-222(2), C.R.S.

6.4.1 Before entering the mobile home space, the management shall first provide the home owner with a reasonable time to cure the alleged noncompliance and an estimate of the cost if the landlord cures the noncompliance instead (when an estimate is reasonably available and a charge would be permitted by the rental agreement).

6.4.2 If the home owner fails to cure or contest the noncompliance (ex. by communicating with the management or filing a complaint with the Program) within a reasonable amount of time, the management shall make a reasonable effort to notify the home owner of the management's intention to enter the mobile home space and cure the noncompliance at least forty-eight (48) hours before entry.

6.4.3 All of the following conditions must be met for the management to charge a home owner for the cost of ensuring compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park:

- A. The potential for a charge must be adequately disclosed in writing in the rental agreement pursuant to section 38-12-213(1)(f), C.R.S.;
- B. The amount of the charge or the charge itself cannot be a prohibited "entry fee," as defined in section 38-12-201.5(1), C.R.S., and prohibited by section 38-12-209(1), C.R.S.; and
- C. If the charge is for the cost of ensuring compliance with a rule or regulation of the park, the rule or regulation must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.

6.5 Limitations on Pet Deposits – Pursuant to sections 38-12-201.5(1), 38-12-209(1), 38-12-207(1) and -207(3), 38-12-102(2) (effective until October 1, 2021), 38-12-102(6) (effective October 1, 2021), and 38-12-103(1), C.R.S.:

6.5.1 The management or landlord cannot charge or collect a nonrefundable pet deposit from a home owner or prospective home owner.

- 6.5.2 The management or landlord may only charge or collect a refundable pet deposit from a home owner or prospective home owner, if the total combined amount of the security deposit and refundable pet deposit is no greater than one month's rent.
- 6.6 Pet Rent Definition – Pursuant to sections 38-12-201.5(1) and 38-12-209(1), C.R.S., any recurring charges to home owners with pets must either be part of the "rent," as defined in section 38-12-201.5(9), C.R.S., or fall under an exception to the prohibition on "entry fee[s]" under section 38-12-201.5(1)(c) or (e), C.R.S.
- 6.6.1 If the management or landlord charges or collects pet rent as part of a home owner's rent, instead of as an exception to the prohibition on entry fees:
- A. The amount or application of pet rent shall not be discriminatory nor retaliatory in nature; and
  - B. All statutes and rules applicable to rent, including, but not limited to sections 38-12-213(1)(a), 38-12-204(2), and 38-12-204(3), C.R.S., apply to pet rent as part of the home owner's rent.

## **RULE 7. WATER USAGE, BILLING, AND LEAKS**

- 7.1 The requirements in section 38-12-212.4(1), C.R.S., apply to all types of water usage, including sewer and storm water usage.
- 7.2 The management or landlord may change the method of utility billing by providing sixty (60) calendar days written notice to the home owners, provided that the new method of billing is reasonable, equitable, and consistent; does not violate any of the provisions in section 38-12-212.4, C.R.S.; and is not in violation of the home owner's rental agreement established pursuant to section 38-12-213, C.R.S.
- 7.3 Only in cases where the management purchases water from a provider and charges home owners for water usage in the park, but the management does not get the master meter charge(s) from the provider until after the management calculates each home owner's monthly water bill, the management may provide the following information to each home owner to meet the billing disclosure requirements under section 38-12-212.4(2), C.R.S.:
- A. The amount owed by the home owner for the current month;
  - B. The total amount owed by all the residents in the mobile home park for the current month; and
  - C. The total amount paid by the management to the provider for the previous month.
- 7.4 In the event that any water usage, billing, or payment information required under section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules is not available to the management due solely to circumstances beyond the management's control, the management shall take reasonable steps to comply with section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules, and to provide accurate disclosures to home owner as soon as reasonably possible and in a manner that meets the intent of section 38-12-212.4, C.R.S.

## **RULE 8. PARK CHANGE OF USE, SALES, OR CLOSURES AND HOME OWNER OPPORTUNITY TO PURCHASE**

- 8.1 Notice of Intent to Sell – For purposes of giving notice pursuant to section 38-12-217(1)(a), C.R.S., a mobile home park owner demonstrates intent to sell the park when the park owner takes actions including, but not limited to:
- A. Signing a contract with a real estate broker or brokerage firm to list the park for sale, sell, or transfer the park;
  - B. Signing a letter of intent or other conditional written agreement with a potential buyer for the sale or transfer of the park, which includes the estimated price, terms, and conditions of the proposed sale or transfer, even if such price, terms, or conditions are subject to change;
  - C. Signing a contract with a potential buyer's real estate broker or brokerage firm related to the potential in the sale or transfer of the park;
  - D. Accepting an earnest money promissory note or deposit from a potential buyer;
  - E. Responding to a potential buyer's due diligence request list; or
  - F. Providing a signed property disclosure form to a potential buyer.
- 8.2 Listing – For purposes of section 38-12-217(2)(a)(I), C.R.S., the landlord lists the park for sale when the owner of the mobile home park or their agent, employee, broker, or representative authorized to act on the owner's behalf offers the property for sale.
- 8.3 Contents of Park Sale Notice – Pursuant to section 38-12-217(3), C.R.S., the "price, terms, and conditions" to sell the park include, but are not limited to:
- A. Any money or compensation the seller or seller's agent has paid or intends to pay to the potential buyer or buyer's agent, including due diligence costs or brokerage fees;
  - B. Whether or not the seller has signed a conditional contract for the sale of the park with a potential buyer, or intends to do so within the next ninety (90) calendar days;
  - C. Any other terms or conditions which, if not met, would be sufficient grounds, in the seller's discretion, for rejecting an offer from residents, their agents, or their assignees; and
  - D. For sales that include more than one mobile home park or piece of real estate, like portfolio or bundled sales:
    - i. The name and property description of any and all other mobile home parks or real estate included in the proposed sale;
    - ii. The total price, terms, and conditions of an acceptable offer to sell all of the properties; and
    - iii. The price, terms, and conditions of an acceptable offer to sell each of the mobile home parks located in the State of Colorado that are included in the proposed sale.
- 8.4 Landlord's Duty to Consider Offer – Pursuant to section 38-217(5)(b), C.R.S., a landlord that receives an offer(s) to purchase a mobile home park from a group or association of home owners

or their assignees must provide a written response to each offer within ten (10) calendar days. The landlord's response to the group or association of home owners or their assignees shall include:

- A. Whether the landlord will accept, will consider, or will not accept the most recent offer submitted by the group or association of home owners or their assignees;
- B. The current price, terms, or conditions of an acceptable offer the landlord has received to sell the mobile home park, or for which the landlord intends to sell the park, if such price, terms, or conditions have changed since the landlord gave notice to the home owners pursuant to sections 38-12-217(1) or (2), C.R.S.; and
- C. If the landlord finds the most recent offer submitted by the group or association of home owners or their assignees unacceptable, an explanation of why the landlord finds the offer unacceptable.

8.5 Affidavit of Compliance – Pursuant to section 38-12-217(11), C.R.S., the landlord:

- A. Shall not file the affidavit of compliance before the home owners' opportunity to purchase terminates or expires pursuant to sections 38-12-217(1)(c) or (6)(a), C.R.S.; and
- B. Shall file the affidavit of compliance on a Division-approved form within thirty (30) calendar days after the sale or transfer of the park is final.

8.6 Exemption Form – If a park sale or transfer qualifies for an exemption from the notice and opportunity to purchase requirements pursuant to sections 38-12-217(12) and (13), C.R.S., the landlord shall provide evidence of compliance by filing a Division-approved exemption form within thirty (30) calendar days after the closing date of the exempt sale or transfer with:

- A. The municipality or, if the park is in an unincorporated area, the county, within which the park is located; and
- B. The Division of Housing in the Department of Local Affairs.

8.7 Sale and Transfer Records – Pursuant to sections 38-12-1105(1) and (3), C.R.S., the seller or transferor of a mobile home park that is located in Colorado shall maintain any and all records related to compliance with section 38-12-217, C.R.S., for a minimum of thirty-six (36) months after any sale or transfer of a mobile home park is complete, including but not limited to:

- A. Records related to Rule 8.1(A)-(B) of these rules;
- B. Notices mailed or given to home owners pursuant to sections 38-12-217(1) and (2), C.R.S.;
- C. Postings pursuant to section 38-12-217(1)(c), C.R.S., including any forms for home owners to provide notice that they do not wish to participate in efforts to purchase the community;
- D. Signed writings provided by home owners to the park owner expressing no interest in purchasing the park pursuant to section 38-12-217(1)(c), C.R.S.;
- E. Offers to purchase and proposed purchase and sale agreements submitted to the landlord by a group or association of home owners or their assignees pursuant to section 38-12-217(4), C.R.S.;

F. Requests for information from a group or association of home owners or their assignees participating in the opportunity to purchase and the landlord's response(s) to these requests for information pursuant to section 38-12-217(5)(a), C.R.S.; and

G. Offers to purchase and any conditional and unconditional purchase and sale agreements submitted by the successful purchaser of the mobile home park.

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

The following changes were adopted on March 11, 2020 and are effective April 30, 2020:

- Created: Rules 1.3, 2.5.1(A)-(B), 3.3.2, 3.7, 3.8, 5.1.1- 5.1.2, 5.2.1, 5.4, 6.2
- Amended: Rules 1.4(I)-(J), 2.1, 2.2, 2.5.1, 3.2, 3.3, 3.3.1, 3.3.3, 4, 4.1-4.4 (restated statute), 5.1, 5.2, 5.3, 6.1
- Renumbered: Rules 1.4, 2.1- 2.5, 3.6, 5.1.3, 6.1
- Deleted: Rules 2.1 (restated statute)

The following changes were adopted on October 11, 2020 and are effective November 30, 2020:

- Created: Rules 1.2(A); 1.4; 1.5; 1.6; 1.7; 2.2(B)-(D) and (I)-(N); 2.3; 2.4; 3.1.1; 3.3.2(A)-(B); 3.5; 3.10-3.10.4; 4.1(E); 6.3; 6.4; 7.1; 7.2; 7.3; 7.4; 8.1
- Amended: Rules 1.1; 1.2 and 1.2(B) (updated statutory cite); 1.3 and 1.3.1 (updated statutory cite); 2.1.1; 2.2(A) and (F); 2.6; 2.7-2.7.1(A); 3.1; 3.8; 4.1; 4.1(A)-(D) and (F); 4.3; 4.4 (updated statutory cite); 5.1-5.1.3; 5.2-5.2.1; 5.3; 5.4-5.4.1; 6.1; 6.2 and 6.2(C) (updated statutory cite)
- Renumbered: Rules 2.2(A), (E) and (G)-(H); 2.5; 3.3-3.3.2; 3.6; 3.7; 3.9; 4.2; 4.5
- Deleted: Rules 1.2 (added to statute); 2.2(A); 3.3 (added to statute); 3.3.2 (added to statute)