

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 "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, modifying, or selectively enforcing rules/requirements that are not uniform or reasonably related to legitimate purposes;
 - G. Conducting management visits that are selective, unequal, or non-uniform, and appear excessive;
 - H. Surveillance targeted at a complainant; or
 - I. 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 homes.

- 2.1.2 The required minimum number of occupied homes may be either pre-1976 mobile homes or manufactured homes constructed to the federal (HUD) standards on or after June 15, 1976 or any combination of the two.
- 2.1.3 An occupied home may be on a temporary foundation and registered with the Department of Motor Vehicles or it may be on a permanent foundation with its title purged.
- 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 and mailing (if different) address of each mobile home or HUD home;
 - D. Identify which homes are independently owned by a home owner versus any owned by the mobile home park;
 - E. The phone number or email address for each occupied independently owned mobile home or HUD home;
 - F. The total number of lots within the mobile home park;
 - G. The total number of occupied mobile homes and HUD homes; and
 - H. The total number of vacant mobile and HUD 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 Fee - \$24.00 must be paid by the mobile home park for each mobile home/HUD home independently owned on rented land within the park.
 - 2.5.1 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 The Act and the Program apply to pre-1976 mobile homes and HUD homes pursuant to sections 38-12-201(1) and 38-12-201.5(2), C.R.S. The terms “manufactured home(s)” or “mobile home(s)”

- used in parts 2 and 11 do not apply to a “factory-built residential structure” or “modular home” as defined in sections 24-32-3302(10) and 24-32-3302(25), C.R.S., which is a home required to be installed on a permanent foundation and therefore cannot be installed in a semi-permanent manner or without a permanent foundation.
- 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/HUD 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 three (3) 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) 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 the responsibility of the landlord, including any expense related to the maintenance of them pursuant to sections 38-12-212.3(1)(a)(III) and 38-12-212.3(2), C.R.S.

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, 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 1.1 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 the Notice provided by the Division pursuant to section 38-12-1104(2)(a), C.R.S., in each of the common areas identified and in the manner provided in section 38-12-1104(2)(c), C.R.S., within one (1) week of receiving the Notice from the Division. If there is more than one common area located in the mobile home park, then each area is required to have the Notice posted clearly visible and accessible, and must be maintained in a condition that ensures it can be easily read.

- 5.2 In the case where a Notice posted in a common area is not likely to be seen, or posting is impractical, the landlord must provide some other reasonable way of ensuring distribution or communication of the required Notice to each individual home owner within one (1) week of receiving the Notice from the Division, i.e. posting the Notice on the door of every home owner's mobile/HUD home on an annual basis.
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Adopted to implement House Bill 19-1309 effective December 30, 2019.