

Mobile Home Owners' Handbook

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I. INTRODUCTION

The purpose of this handbook is to clarify existing mobile home park law in Colorado, to explain its procedures, and to generate options for collaborative resolutions for concerns between a homeowner and park management.

In this state, the Colorado Mobile Home Park Act ("the ACT") governs mobile home park law. The Act was designed to address issues unique to the mobile home park resident, and sometimes differs from laws affecting conventional landlord-tenant rental arrangements. This handbook will refer to the Act as printed in the Colorado Revised Statutes, cited "C.R.S."

This handbook is not intended as a substitute for seeking advice from an attorney or other qualified professional. All information contained in this handbook is subject to change at any time through legislation and court decisions.

Laws will differ depending on whether or not the mobile home is owner-occupied or a rental unit. This handbook addresses owner-occupied units in mobile home parks. The usual landlord-tenant rental rules apply for non-owner occupied units. For a Landlord-Tenant Handbook, call the Office of Community Relations, City of Longmont at 651-8444.

NOTE: Some park rules prohibit leasing homes to non-owner occupants; each homeowner should refer to his or her rental agreement for individual park policies

We recommend that all parties **keep a file** of letters, notices, and rule amendments, as well as a log of communications between homeowners and management. Documentation can be useful especially over the course of a long-term tenancy and when disputes arise.

II. BEGINNING A RENTAL AGREEMENT

A. Written Lease:

There must be a written lease to evidence the landlord-tenant relationship, and it must state the terms, conditions, rules and regulations which control the tenancy. Before signing the rental agreement, both parties should understand the meaning of each provision in order to avoid misunderstandings in the future. All parties should sign the agreement, and keep a copy to refer to during the tenancy. Rental agreements are legally binding documents. [Signing the rental agreement means that you have agreed to all of its terms.]

This handbook attempts to raise some issues to consider before signing a rental agreement. If the parties negotiate or agree to additional or different terms, **get them in writing.**

NOTE: The rules and regulations signed to at the beginning of the rental arrangement will control, but are also subject to **amendment**. See "Change in Rules" and "Grandfathering" sections, to follow.

Minimum Required Disclosure: Park rules and regulations must be adequately disclosed in writing in a rental agreement to any prospective homeowner. These disclosures must be made prior to the rental or occupancy of a mobile home space or lot.

Disclosure must include:

- 1) term of tenancy
(fixed term of month-to-month)
- 2) amount of rent
- 3) day that rent payment is due
- 4) day when unpaid rent is considered late
- 5) park rules and regulations then in effect
- 6) name and mailing address where manager's decision can be appealed
- 7) all charges to the homeowner other than rent.

Remember, the terms and conditions of the rental agreement will control the tenancy. These terms are subject to Colorado law. If one term violates Colorado law, it will be unenforceable, but it will not invalidate the entire rental agreement.

B. Terms, Conditions, Rules & Regulations

Colorado law states , that park managers and owners need to look at the following considerations when establishing the rules and regulations for the park.

- 1) promote the convenience, safety, or welfare of the homeowners,
- 2) protect and preserve the premises from abuse, or
- 3) make fair distribution of services and facilities held out for the homeowners generally.

Furthermore, the rules and regulations must be reasonable, must be in writing, and disclosed before beginning a rental agreement. They must not be retaliatory or discriminatory in nature and must be worded clearly enough so that homeowners are informed of what they must or must not do to comply.

C. Amendments/Change in Rules

Parks may amend existing rules and regulations, or adopt new rules. **Sixty days notice** is required before new rules become effective. New rules may be in effect even though not consented to by the homeowners, as long as proper notice was given, and the rules are reasonable.

During the 60-day interim: Before new rules go into effect, homeowners and homeowner associations may wish to contact management, suggest amendments, sign written protests to the change, challenge the reasonableness of the rule or otherwise get involved in both the process and the outcome.

D. Rent Increases

Rental rates are also subject to change during tenancy. Before any rent increase is to take effect, management must give:

- **60 days written notice**
- state the amount of the rent increase
- effective date

If the name, address, telephone number of management (or their chief executive office) was not provided in the rental agreement, it also must be included in this notice.

Colorado state law prohibits any kind of rent control. Housing authorities and other public agency-owned parks are exceptions.

E. Maintenance & Repairs

The respective duties of homeowner and management will be allocated in the rental agreement. Generally, homeowners will be responsible for keeping their home and home site up to the standards set by the park rules and regulations. Major landscaping projects are reserved for management. If you are unsure of what your responsibilities are, read your rental agreement or ask your management.

Failure to comply can result in either: (1) management performing the task and billing the tenant for the reasonable cost, or (2) notice to terminate.

By law, management will be responsible for and pay the cost of maintenance and repair of the following, unless otherwise agreed to in the rental agreement:

- 1) sewer and utility service lines owned and provided by the landlord
- 2) buildings or structures owned by the park and provided for the use of the residents
- 3) Premises of park. The "premises" are defined as the existing facilities and ¹appurtenances, including furniture and utilities, grounds, areas, existing facilities held out or promised for the use of homeowners generally.

The rental agreement can shift these duties to the residents.

Residents are also responsible for the cost of repairing any damages they or their guests cause to park property of other property located in the park.

¹accessories

F. Improvements and Upgrades

Rules and regulations may change, requiring additional improvements and upgrades to homes within the park. Non-compliance with new rules and regulations may be grandfathered in, so as not to result in eviction. ²**Grandfathering** is meant to save homeowners the expense and hardship of complying with rules that they did not agree to when they entered the rental agreement.

However, compliance with the current rules may be required as a condition of selling a home to stay on-site within the park. Parks will expect all homes in the park eventually comply with the current rules and regulations. Thus, when a homeowner seeks approval to sell his or her home on-site in the park, either the homeowner or the purchaser will be responsible for upgrading that home to meet the current rules and regulations of the park.

NOTE: some parks will **refuse to approve** the on-site sale of home that does not comply with the current rules and regulations. See "On-Site Sales."

G. On-Site Sale of Mobile Homes

Most homeowners, when they decide to relocate, desire to sell their home on-site. **Read the rental agreement** for the restrictions, criteria, and procedures of each park. In order to avoid surprises, ask what kinds of criteria are currently used, if no policy is stated. The most common considerations for approving an on-site sale include:

- o Compliance with current rules and regulations
- o Compliance with safety codes (electrical, fire, etc.)
- o age, construction, and/or overall maintenance of the home³

Most parks will require approval of both the home and the potential buyer for onsite sales. If a home is not approved, the homeowner may still show the home for sale in the park, but it must be **moved out of the park** when it is sold. Parks may not unreasonably restrict the resale of a home in the park, but usually have some restrictions regarding placement of for-sale signs, etc. Some rental agreements will also restrict the size and placement of "for sale" signs. However, parks may not absolutely prohibit a homeowner from displaying a "for sale" sign.

Moving a home off-site: Homeowners should be aware of the range of costs that may be

²Any legal provision that exempts a business, class of persons, etc., from a new regulation that would affect prior rights or privileges

involved in selling a mobile home to be taken off-site. If a home is not in compliance with park rules and regulations, it may be denied approval to be sold on-site, and the homeowner can expect to face the following costs associated with moving: dismantling fixtures and utilities, transporting the home, and reconnecting the utilities at the new site.

Options: Many homeowners find it effective to make special arrangements with either management, the new purchaser, or both. For example, a homeowner may propose to make specific upgrades out of the proceeds of the sale of the home. The new purchaser then gets a home that is acceptable under park rules and regulations, and the departing homeowner can utilize the value of an on-site sale in setting the purchase price.

H. Security Deposits

Colorado law sets a maximum that a park may charge as security deposit. For single-wide units, the maximum is one month's rent; for multi-wide units, the maximum is two month's rent. Deposits paid after July 1, 1979, must be deposited into a separate trust account by the park owner.

Homeowners should leave a forwarding address where deposit checks are to be mailed. In the event that a check is not forthcoming, homeowners can contact management to clarify the status of the deposit, whether any deductions were made for damages to the site, and arrange for a specified procedure if the check has not yet been mailed. Confirm any agreements in writing. If no agreement can be reached, either party can seek ³mediation or legal advice from an attorney.

Return of Deposit: Colorado law does not address the return of mobile home security. Read the rental agreement; if it says nothing, try negotiating a time frame by which the homeowner can expect it to be returned. For example, some parks will state "within 60 days after the expiration or termination of tenancy," homeowner will receive the balance of the deposit with an explanation of any deductions.

Remember, the regular landlord-tenant law does not apply here, but you can agree to use a similar framework.

III. TERMINATION OF A RENTAL AGREEMENT

A rental arrangement can end in two ways:

- 1) by mutual agreement/termination by homeowner or termination by park

³ a process that involves the intervention of an acceptable third party who has limited or no authoritative decision making power

- 2) by court action/eviction for non-payment of rent, or breach of park rules or regulations.

Notice requirement is different for each type of termination.

A. Termination by the homeowner

Homeowners should consult their rental agreement, rules, and regulations, and proceed according to those provisions. These will usually specify a notice period to give the park written notice.

B. Termination by the park

Parks must proceed according to Colorado state law, as follows. These procedures are meant to protect homeowners during their tenancy.

1. Notice to Quit

Parks must serve or post a notice to quit to terminate any rental agreement. The notice should state the date by which a mobile home should be removed from the premises. It must also be **in writing** and state:

- 1) the name of the landlord or mobile home park
- 2) the mailing address of the property
- 3) the county
- 4) the location or space number of the mobile home.

After the last day of the notice period, the park owner may go to court to file an eviction action. A description of the required court procedure is included in the "General Information" section, to follow.

The above are minimum requirements set by state law. Parks may have adopted more extensive warning or notice procedures; see rental agreement, attached rules and regulations, or consult your management.

2. Eviction

Colorado law specifically prohibits termination for the sole reason of making the homeowner's space in the park available for another unit.

Eviction is a court proceeding in which the owner is suing to recover possession of the rental space, for certain violations of the lease, rules or regulations. Before going to court, management must give:

- 1) notice to quit, which states the grounds for eviction
- and 2) time to cure (what the homeowner can do to correct the violation)

If notice to quit lists more than one violation, homeowner needs to cure all violations. Curing one of the stated violations will not prevent the eviction proceeding from going forward.

The grounds for termination by the park owner are limited to the reasons listed in the following sections.

a. Violation of Park Rule or Regulation

Non-compliance with the terms that are stated in the rules and regulations is an independent ground for eviction. That a park owner may pursue **after serving notice to quit**, and **after the period to cure has expired**.

Management must serve or post the proper notice. The homeowner then has **30 days** to avoid the court eviction process by curing the violation. **Sixty days notice is required for multi-wide units**. When a homeowner cures a violation, it is a good idea to get some form of writing from the park, stating that the violation was cured.

If the homeowner has not cured the violation after the period to cure has passed, management may file for an eviction action in court. **When the right to cure has passed**, the park owner need not accept any offer to cure.

The tenant will receive a summons, indicating the date of the court hearing and will have at least **5 days** to answer and respond to the summons.

If a homeowner receives a second notice for violation of the same rule within 12 months of the first notice, there may be no right cure.

Also, see your copy of rules and regulations for internal procedures that may differ from these minimum notice requirements. Homeowners may also find it useful to consult an attorney at this point; or, Longmont Mediation Program 651-8444.

If the grounds for eviction are rules that were not included in the initial rental agreement, homeowner may be "grandfathered" in. See "Proof" section under General Information. This policy is called **Grandfathering**, and is meant to protect homeowners from the expense and

hardship of complying with rules that they did not agree to when they entered the rental agreement. Also see "Upgrading".

After Judgment: If the park prevails in an eviction proceeding, the park must notify the Homeowner of the judgment. The Homeowner then has **48 hours** to vacate the premises. If the Homeowner has not removed the home from the space, the park may remove and store and store the home, and charge the homeowner for the costs incurred. Mortgage companies and other parties with security interest in the mobile home, if any, will be notified at this time, so that they may assert their property interest in the home.

b. Non-Payment of Rent

Failure to pay rent when due is an independent ground for eviction. **Notice** must be given in writing, for Homeowner to either 1) pay rent, or 2) remove the mobile home from the premises within **5 days**. The homeowner has **5 days** to cure; after five days have past, the park is no longer required to accept the late payment and may proceed in a court eviction action. When a homeowner pays back-rent within the five days, it is a good idea to have the park sign a statement acknowledging the payment; also keep a receipt or copy of method of payment.

If the homeowner has not cured the violation after the 5 days have passed, management may file for an eviction action in court. **At this time the right to cure has past**, and park owner need not accept any offer to cure.

The tenant will receive a summons, indicating the date of the court hearing and will have at least **5 days** to answer and respond to the summons.

If a homeowner receives a second notice for violation of the same rule within 12 months of the first notice, there may be no right to cure.

After judgment: If the park prevails in an eviction proceeding, the park must notify the Homeowner of the judgment. The Homeowner then has 48 hours to vacate the premises. After **48 hours**, if the Homeowner has not removed the home from the space, the park may remove and store the home, and charge the homeowner for the costs incurred.

Mortgage companies and other parties with security interest in the mobile home, if any, will be notified at this time, so that they may assert their property interest in the home.

c. Other Grounds for Termination

Colorado law also authorizes parks to terminate a rental agreement for the following reasons:

- (1) Knowingly making false or misleading statements on a tenancy application.
- (2) Conduct of resident, lessee, guest invitee that 1) endangers lives, 2) willfully or maliciously damages or destroys property on the park premises, or 3) is a felony or public nuisance. {**see 202(1)(II): **10 day** minimum, **15 day** multi-section, notice to quit)

- (3) Conduct that it is an annoyance to other homeowners, or interferes with park management.
- (4) Failure to comply with local ordinances and state laws.
- (5) ⁴Condemnation. Park owner must notify residents of the terms of the condemnation **17 days** after owner gets notice from the condemning government agency.
- (6) Changed use of the land. When change of use of the land will result in eviction of inhabited mobile homes, park owner must mail written notice of intent to evict at least 6 months before the change occurs.

3. General Information About Eviction

Delivery of Service: Notices must be either delivered to the resident, or posted on the main entrance of the mobile home. This applies to notice to quit, and summons of complaint in court actions.

Cure Period and Counting Days: For example, if a notice is posted on Day 1, and the resident has 30 days to cure, the last day that the resident can cure to avoid the eviction process is Day 31. On Day 32, the park may bring an action for eviction in court.

Court Dates: In Boulder, hearings are on Fridays; in Longmont, hearings are held on Mondays. Court documents will specify when a hearing is scheduled.

Appearance in Court: a person must make an appearance in court in order to defend against eviction. A party who does not show up in court will automatically lose, and the opposing party will be entitled to a default judgment in their favor. Default judgments are final.

Proof: Landlord must prove 1) compliance with notice requirements, and 2) that homeowner was provided statements of reasons for the termination.

Homeowner's defenses, among others, include 1) that allegations are false, or 2) that reasons for termination are invalid.

After Judgment: If the park prevails in an eviction proceeding, the park must notify the homeowner of the judgment. The homeowner then has 48 hours to vacate the premises. After 48 hours, if the homeowner has not removed the home from the space, the park may remove and store the home, and charge the homeowner for the costs incurred. Mortgage companies and other parties with security interest in the mobile home, if any, will be notified at this time, so that they may assert their property interest in the home.

4. To Avoid Court Proceedings

⁴ to acquire ownership of, for public purpose under the right of eminent domain, which gives the state the power to take private property for public use with payment of compensation to the owner.

Although courts are available to decide and enforce people's rights, parties can also tailor their own solutions. The parties not only save time and expense, but stay in control of their agreements.

When disagreements arise, every effort should be made to clarify rules, regulations or prior communications, and to negotiate a settlement. Confirm any agreements in writing.

If direct negotiation is not successful, mediation is often the next best alternative. Mediation is an assisted negotiation process in which a neutral mediator helps the parties communicate and listen to each other's point of view, develop a list of issues to be resolved, and negotiate a settlement that meets both parties' needs. Agreements reached in mediation are drawn up by the mediator and signed by the parties. For more information, contact Longmont Mediation at 651-8444.

Using the notice period to cure violations will prevent court action. Homeowners should, as a precaution, have management sign a statement indicating that violations were in fact cured. If you need help complying with a park rule or regulation, try negotiating with the park to agree on a reasonable time by which specific steps might be made. Also, contact the City of Longmont Community Development Block Grants Program 651-8736 for information about qualification and application for grants to help fund some improvements. Once the period to cure has expired, the park can go to court and need not accept any offer to cure the stated ground for eviction.

IV. OTHER ASPECTS OF MOBILE HOME PARK LIVING

A. Utilities

Colorado law does not define "rent," and many parks include utility charges as **part of rent payment**: check the rental agreement, rules and regulations, and any amendments. In parks where this arrangement applies, withholding utility charges from the space rental amount may be treated as "non-payment of rent." See section on "Termination of Rental Agreement," p. 7.

If utilities are not included as part of rent, legal process other than eviction should be used to collect utility and other incidental charges that are not provided by the rental agreement. Eviction proceedings are to recover possession of the premises, rather than for collection of these charges.

Master Meters (or other composite measurement devices): Colorado's Public Utilities Law governs master meter arrangements. The master meter operator is referred to as the "MMO"; the actual users are referred to as "end users."

The Public Utilities Law prohibits MMO's from billing its end users any more than the actual cost billed to the MMO by the serving utility. **Actual costs** will typically include: construction, maintenance, financing, administration, metering, or billing for the utility distribution system owned by the MMO.

If the MMO bills the end users separately for service, the MMO must also pass on to the end users any refunds, rebates, rate reductions, or adjustments it receives from the serving utility. End users must receive notice of such adjustments, either by first-class mail with a certificate of mailing or by inclusion in any monthly or more frequent regular written communication. End users will have 90 days to claim the adjustment. Uncollected adjustments will be contributed to the low-income energy assistance fund. For further information, see C.R.S. 40-1-103.5.

Under the Mobile Home Park Act, park owners may contract for utility service to homeowners. In this type of arrangement, management must remit to the utility all money collected from each resident as payment for the resident's share of the utility charge, within 45 days of receipt of the payment. This provision ensures that end users will have utility services, despite a late payment or failure to pay by the MMO.

B. Homeowner Meetings

Management may not prohibit meetings of homeowners relating to mobile home living and affairs. Meetings must be allowed to take place in community or recreation hall, if one exists, and if it is reserved according to the park rules, at reasonable hours.

C. Dealer Preferences

Colorado law prohibits management from conditioning residence upon purchase of a mobile home from any particular seller or group of sellers. This is also a prohibition of preferences in renting to prospective homeowners who have purchased a mobile home from a particular seller. Likewise, sellers of mobile homes may not condition their sales upon the purchaser's placement in a particular mobile home park or group of mobile home parks. This prohibition does not apply to new developments.

Parks must treat all persons equally in renting or leasing available space. It is illegal for a seller of mobile homes to offer or pay cash or anything of value to a park owner or agent, for the purpose of reserving space or otherwise inducing acceptance of one or more mobile homes in a park.

D. Sale of Park

Rental agreements remain in **full effect** despite changes in park ownership. A new purchaser of a mobile home park takes the land subject to the existing rental agreements. Homeowners are secure in the possession of their space for the **fixed term** of their rental agreement; or, in a **month-to-month** rental arrangement, the same rules that applied to the previous owner will apply to the new owner.

A park owner must notify homeowners of his or her intent to sell, at least **10 days** before the scheduled closing. Notice must be:

- 1) written
- 2) Mailed to each homeowner, at the address shown on the rental agreement

However, this notice is not required if the transfer takes place between family members or partners in a partnership.

The park may eventually be sold to an owner who wishes to no longer operate the park. This is a **change in use** of the land, which can only be done if the zoning for the land allows. [See #6, in the "Other Reasons for Termination" section, p. 8.]

LIST OF RESOURCES

Longmont Mediation Program/Community Relations Office
City of Longmont 651-8444