

# The Attorney General's Guide to Manufactured Housing Community Law

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**TABLE OF CONTENTS**

Introduction ..... 5

I. An Overview of Manufactured Housing in Massachusetts ..... 5

    A. The Unique Nature of Manufactured Housing Living ..... 5

    B. Balancing the Rights of Residents and Community Owners ..... 6

    C. The Manufactured Housing Act ..... 6

    D. The Attorney General’s Regulations ..... 6

    E. The Attorney General’s Model Rules for Manufactured Community Living ..... 7

II. A Consumer’s Guide To Manufactured Housing Living ..... 7

    A. Buying a Manufactured Home ..... 7

    B. Construction or Installation Problems ..... 9

    C. Becoming a Manufactured Housing Community Tenant ..... 10

    D. Community Conditions ..... 16

    E. Rent and Additional Fees ..... 27

    F. Capital Improvements ..... 29

    G. Retirement Communities ..... 30

    H. Selling Your Manufactured Home ..... 32

    I. Manufactured Housing Cooperatives ..... 34

    J. Purchase of a Manufactured Housing Community by Residents ..... 35

    K. Eviction from a Manufactured Housing Community ..... 38

    L. Discontinuance or Change of Use of a Manufactured Housing Community ..... 45

III. Resolving Disputes And Enforcing Your Legal Rights ..... 48

    A. Government Enforcement ..... 49

    B. Private Enforcement ..... 51

IV. Conclusion ..... 53

Endnotes ..... 55

**APPENDICES**

**Appendix A:**  
Explanation of Legal Citations ..... 63

**Appendix B:**  
The Attorney General’s Model Rules for Manufactured Housing Community Living ..... 65

**Appendix C:**  
M.G.L. c. 140, § 32 ..... 77

**Appendix D:**  
940 C.M.R. 10.00 ..... 91

**Appendix E:**  
Model Notices ..... 111

**Appendix F:**  
Officers of the Mobilehome Federation of Massachusetts ..... 113

**Appendix G:**  
Contact for the Massachusetts Manufactured Housing Association ..... 115

## **INTRODUCTION**

This guide provides a comprehensive discussion of the legal rights and responsibilities of residents and owners of manufactured housing communities. In particular, it discusses M.G.L. c. 140, §§ 32A-32S,<sup>1</sup> often called the Manufactured Housing Act, the Attorney General's manufactured housing regulations, and other relevant housing laws. Understanding the law can help community owners and residents avoid disputes, resolve those that do occur, and, when necessary, take steps to enforce legal rights.

### **I. AN OVERVIEW OF MANUFACTURED HOUSING IN MASSACHUSETTS**

Modern manufactured housing communities are often spacious communities of large and attractive manufactured homes<sup>2</sup> with all the conveniences of conventional housing and attractive landscapes. Many manufactured housing residents have found that manufactured homes (sometimes called "mobile homes") offer the benefits of traditional site-built housing at a much lower cost. This housing option is particularly important in view of the rising cost of real estate in Massachusetts over the last 20 years. As the courts have recognized, "manufactured housing communities provide a viable, affordable housing option to many elderly persons and families of low income."<sup>3</sup>

#### **A. The Unique Nature of Manufactured Housing Community Living**

Despite the benefits of living in a manufactured housing community, residents are sometimes confronted with problems that they did not anticipate when they made the decision to buy their home. These problems generally arise from the unique nature of manufactured housing living. In most manufactured housing communities, residents own their homes but must rent their lots from the community owner.<sup>4</sup> Most community owners establish rules governing residents' use and occupancy of their lots and the common areas of the community. Once placed on a lot, a manufactured home is essentially immobile.<sup>5</sup> Moving a home, in fact, can endanger its structural integrity. Most homes are set up on pads and connected to the community's utilities, and may also have additions, attached porches, or decks. Larger "double-wide" homes are transported in sections and assembled on-site; disassembly and removal may damage them substantially. Even if a home could be moved, there may be nowhere to move it to. Many cities and towns in Massachusetts allow manufactured homes only in manufactured housing communities, and historically there has been a scarcity of available spaces in existing communities.<sup>6</sup>

As a result, it is usually very difficult, if not impossible, to sell a manufactured home if it is not on a lot. "[I]f a tenant is unable to sell his home on the lot, his investment may be rendered almost worthless."<sup>7</sup> Consequently, if a community threatens to close (a "community discontinuance"), homeowners risk losing not only their home but also their entire investment. Community discontinuances thus "generate serious threats to the public health, safety and general welfare of the citizens of this Commonwealth, particularly the elderly and persons of low and moderate income."<sup>8</sup> In recent years, the Legislature has strengthened legal protections for manufactured homeowners facing the threat of a community discontinuance, providing for long-term notice and other protections.

## **B. Balancing the Rights of Residents and Community Owners**

Residents and community owners alike are entitled to respect in order to preserve and enhance their mutual interest in the manufactured housing community. In general, community owners should be able to recover their costs and have the chance to make a fair income from their investment in the community. Similarly, residents should be able to live in a stable community, maintain the value of their homes and, upon resale, recoup their investment to the extent the market allows.

In general, however, due to the unique nature of manufactured housing living, community owners have “the opportunity to exert substantial control” over residents,<sup>9</sup> who are in an “ineffective bargaining position” and have “no reasonable alternative” but to agree to their owners’ demands.<sup>10</sup> Accordingly, the courts have acknowledged that manufactured housing residents “are often lacking in resources and deserving of legal protection.”<sup>11</sup>

## **C. The Manufactured Housing Act**

It was in this context that the Legislature enacted comprehensive provisions protecting residents of manufactured housing communities, M.G.L. c. 140, §§ 32A-S (“the Manufactured Housing Act” or “the Act,” included in Appendix C of this guide).<sup>12</sup> Carefully tailored statutory requirements were aimed at improving the residents’ ineffective bargaining position while preserving and protecting the legitimate interests of community owners.<sup>13</sup>

In 1993, the Legislature, under the leadership of Senator Marc Pacheco, substantially amended the Act to authorize the Attorney General to issue regulations,<sup>14</sup> and to strengthen residents’ legal protections, particularly those for residents facing the threat of a community discontinuance.<sup>15</sup> Upon signing the legislation, then-Governor William Weld declared that the Legislature had recognized “the urgent need to address a crisis faced by a large number of elderly and low-income residents of mobile home parks.” The purpose of the amendments was to “protect tenants who are facing the possible discontinuance of these parks and are consequently threatened with the uncompensated forfeiture of their homes.” In addition, the amendments assisted “both manufactured home community tenants and owners by making manufactured housing communities in the Commonwealth a more secure and affordable investment.”<sup>16</sup>

## **D. The Attorney General's Regulations**

Under the Act, the Attorney General's Office plays an important role. Along with the Director of the Department of Housing and Community Development,<sup>17</sup> the Attorney General reviews all rules issued by community owners.<sup>18</sup> The Attorney General's Office also has the authority to enforce the Act by bringing civil actions in court.<sup>19</sup>

In addition, in 1996, the Attorney General issued manufactured housing regulations, as authorized by the amended Act. The regulations were written by a task force of assistant attorneys general from the Attorney General's Consumer Protection Division, and attorneys from the private law firm of Hill & Barlow acting in their capacity as Special Assistant Attorneys General.<sup>20</sup> Before issuing the regulations, this task force held public hearings in both Boston and Springfield. The task force also met with, and received written comments from, representatives of both community owners and residents. The regulations became effective on August 23, 1996, and are officially published at 940 C.M.R. 10.00 et seq. In this guide, these are referred to as simply the “Regulations.” They are included here in Appendix D.

One important purpose of the Attorney General's Regulations is to provide standards that guide the Attorney General in carrying out the obligation under the Act to review community rules. Whereas the Act merely states that no community rules may be "unreasonable, unfair or unconscionable,"<sup>21</sup> the Regulations provide more specific standards. In addition, the Regulations provide a concrete interpretation of the Act itself. Together with the Act and other housing laws, the Regulations set forth the rights and responsibilities of both community owners and residents of manufactured housing communities.<sup>22</sup>

### **E. Model Rules for Manufactured Housing Community Living**

Most recently, the Attorney General's Office (AGO) has developed a comprehensive set of model rules for use by owners of manufactured housing communities, which are set out in Appendix B. These Model Rules are the product of a series of meetings with representatives of the Massachusetts Manufactured Housing Association (the statewide community owners' association), the Mobilehome Federation of Massachusetts (the statewide community residents' group), and representatives of the Department of Housing and Community Development ("DHCD"), and the Manufactured Housing Commission.<sup>23</sup> Comments were taken over a period of several months, and all parties had a full opportunity to air their views on everything from pets and guests to utilities and aesthetic requirements. As a result of this process, the Model Rules amply address the need for balanced, fair and clear rules on almost every aspect of life in manufactured housing communities. Since the Model Rules closely track the requirements of both the Act and the Regulations, community owners who adopt the Model Rules can be assured that their proposed community rules will not be disapproved, while residents may be assured that their rights will be respected.

## **II. A CONSUMER'S GUIDE TO MANUFACTURED HOUSING COMMUNITY LIVING**

Despite the many benefits of living in a manufactured housing community, there may be times when you have questions or concerns about your home or life in your community. This guide comprehensively reviews the law governing all aspects of life in your community, whether it is the decision to purchase – or sell – your home, construction or installation problems, community conditions, or rent and other fees. The guide also includes special sections on manufactured housing cooperatives, purchasing your community, eviction, and discontinuance of manufactured housing communities. Understanding your legal rights and responsibilities can often be the first step in resolving any problems you may encounter.

### **A. Buying a Manufactured Home**

As with all major purchases, you should be completely informed before you make a decision to purchase a manufactured home. You should compare prices and examine rental and other costs over a reasonable planning period. If you are planning on moving into a manufactured housing community, you may also want to talk to current or past tenants, as well as the local board of health, which licenses the community. See Section III.A.2 of this guide.

#### **1. Tenant's right to choose manufactured home dealer**

In general, when you move into a manufactured housing community, you have the right to choose the manufactured home dealer from whom you purchase or lease your home. There is one exception: if the manufactured homesite is being leased or rented for the first time, the community owner/operator<sup>24</sup> may restrict your choice of dealers based on reasonable aesthetic

standards in the community rules. In addition, a community owner/operator may reasonably restrict your choice of brands of manufactured homes based on such reasonable aesthetic standards. A restriction will be presumed unfair, however, if it substantially limits your choice of a dealer. M.G.L. c. 140, § 32L(3); 940 C.M.R. 10.06(2).

## 2. Hidden costs

If you are moving into a newly developed manufactured housing community, where the lot is being leased for the first time, and you are purchasing a home from the community owner/operator or a specified dealer, make sure that you understand what you are being charged for. The Act requires disclosure of all fees, charges and assessments. M.G.L. c. 140, § 32P; 940 C.M.R. 10.03(4).

Any costs of developing the space (for example, engineering, grading, construction of roads, driveways, water and sewer lines, and utilities) must be separately disclosed to a home purchaser. Such development costs should reflect the actual cost of developing the space and should be passed on separately – either through an installation fee or a capital improvement assessment – but not as part of the price of your new home. This is important if you are financing your new manufactured home. Mingling development costs with the price of the home can incorrectly inflate the amount that you have to finance and the amount that you have to borrow. The result can be that when you attempt to pay off your loan (either at sale or refinancing, for example), you may well find that the outstanding balance on the loan exceeds the resale price or market value of the home. This can make refinancing or sale difficult or impossible.

## 3. Proof of ownership

Ownership of a manufactured home is usually proven by a bill of sale or certificate of origin.<sup>25</sup> If you are buying a new home from a dealer, the dealer is required by state law to provide a certificate of origin. M.G.L. c. 90D, § 6. If you are buying a previously owned home, it is recommended that you obtain a notarized bill of sale as proof of ownership. You may not receive a certificate of origin for previously owned homes, because, unlike motor vehicle certificates of title, certificates of origin do not have to be signed over to subsequent purchasers of the manufactured home.

## 4. Taxes

**a. Sales tax.** If you buy a new or used manufactured home from a dealer, you will have to pay the Massachusetts sales tax on the sale of the new or used home. The sales tax does not apply, however, if you purchase your used home directly from a homeowner.

**b. Monthly license fee in place of property tax.** For tax purposes, manufactured homes are classified as personal property and generally exempted from real property taxes.<sup>26</sup> M.G.L. c. 140, § 32G; M.G.L. c. 59, § 5, cl. (36). In place of a property tax, homeowners pay a monthly license fee, which is collected by the community owner/operator and turned over to the town. M.G.L. c. 140, § 32G.<sup>27</sup> The amount of the license fee is determined by your local city or town and varies from \$6-\$12 per month. The community owner/operator, not the residents, is responsible for paying the real estate taxes on the underlying land, but the owner/operator may recover those costs through the rent charged to residents.



## **5. Existing liens and debts of previous resident**

You cannot be required to pay any rent, taxes or other charges owed by the prior owner of your home. A community owner/operator, however, may place a lien on a manufactured home under certain circumstances, such as when there is unpaid lot rent. M.G.L. c. 140, § 32J; M.G.L. c. 255, § 25A. The community owner/operator is required to disclose any such pre-existing lien to a prospective new occupant. 940 C.M.R. 10.07(1)(d). Before you purchase your home, therefore, you should make sure that all such liens have been paid off by the previous homeowner.

## **6. Right of rescission**

If, for any reason, your application for tenancy in a manufactured housing community is rejected, then you have the right to cancel any agreement you have made to purchase a home in that community. This is true also if the seller or his or her agent has misrepresented or failed to disclose to you that the home may not be permitted to remain in the community. 940 C.M.R. 10.06(3)(a) & (b).

## **B. Construction or Installation Problems**

After buying your home, if you experience problems relating to faulty construction or installation of your home, you should contact the seller, dealer and/or the manufacturer, as your problem may be covered by the manufacturer's warranty, or an express or implied warranty. Failing in that, you should contact your local consumer program, which may be able to mediate your complaint.<sup>28</sup> You may also decide to hire a private attorney to enforce your rights.

### **1. Construction or installation defects**

Federal regulations created by authority of the National Manufactured Housing Construction and Safety Standards Act of 1974 set construction standards for all manufactured homes built after June 15, 1976. As a result of these standards, most manufactured homes when they leave the factory are as structurally sound and durable as site-built homes. However, problems may occur between the factory and the manufactured home pad, either as a result of improper manufacture or faulty installation. The most commonly reported defects are buckling walls, frame damage, roof and ceiling leaks, malfunctioning doors and windows, and problems with electrical, plumbing, and heating systems.

### **2. Warranty protections**

There are three types of warranties that protect you against economic loss caused by defects in your manufactured home or its components. These are manufacturer's written warranties; express warranties; and the statutory implied warranty of merchantability.

**a. Written warranties.** If you purchased a new manufactured home within the past several years, you probably were given a written warranty covering certain defects for a specified period of time. Typically, such a warranty offers protection against all defects or against substantial defects in materials and workmanship in the manufactured home. Non-structural items, such as dishwashers, washers, dryers, furniture, or rugs, may also be separately warranted by their manufacturers.

A warranty protecting you against loss from "substantial defects" should cover all but strictly cosmetic damage. You should take advantage of this warranty if you experience

problems with your manufactured home. Contact your dealer concerning any problems you are experiencing which you believe may be covered by the warranty. If an item is covered by the warranty but the dealer either refuses to perform his or her obligations under the warranty or claims that the warranty does not cover the problems you are encountering, the dealer may have breached the warranty. M.G.L. c. 106, § 2-316A.

If you obtained the financing necessary to purchase a new manufactured home through either the Veteran's Administration or the Federal Housing Administration, federal law requires that the manufacturer provide you with a one-year warranty. 38 U.S.C. § 1818 (h)(2)(B)(I) (1976); 24 C.F.R. 210.520(c) (1979).

**b. Express warranties.** Express warranties can be created in three ways: by any statement or promise; a description of the manufactured home; or the use of a sample model – as long as the statement, description or model goes to the basis of the bargain. M.G.L. c. 106, § 2-213.

Many people believe that if these promises are not put in writing they are unenforceable. That is not necessarily the case. If you were promised or shown something which played a large part in your decision to purchase a home, and the promise was never fulfilled or the description or model varied substantially from what you ultimately received, then the law may have been violated, and you may be entitled to relief.

**c. Implied warranties.** In addition to written and express warranties, there is also an implied warranty that the manufactured home is reasonably suited to the use for which it was designed. M.G.L. c. 106, § 2-314. This is the "implied warranty of merchantability," which is often more extensive and of longer duration than written or express warranties.

Unlike a written or express warranty, the warranty of merchantability does not cover specific defects, rather it covers everything necessary to make the home fit for the ordinary purpose for which it will be used. For example, if the rugs in your home wore out after only six months use, then (unless you subjected them to abnormal wear and tear) the implied warranty was probably breached. However, if the rugs wore out after 10 years, the implied warranty probably would not have been breached, as the rugs were fit enough for ordinary use to last 10 years.

The implied warranty of merchantability is potentially the most significant warranty protection you have. It cannot be disclaimed or modified by the dealer or manufacturer, despite any warranties they may give you and despite anything they may say or include in a written document. M.G.L. 106, § 2-316A. It usually covers defects that occur after written and express warranties have expired. It also usually applies to defects that were never covered by any written or express warranties. Damage caused by faulty setup, for example, is seldom covered under a manufacturer's written or express warranties, but may be covered by the warranty of merchantability.

If you have had problems with your manufactured home, ask yourself whether a reasonable person could have expected such problems to occur within the timeframe they did. If the answer is no, then the warranty of merchantability may well have been breached.

### **C. Becoming a Manufactured Housing Community Tenant**

Once you decide to purchase a manufactured home, you are also becoming a tenant of a manufactured housing community. Such tenancies usually begin with an application process, and are governed by the community rules, the required written disclosures, and, in some

communities, a written lease or occupancy agreement.

## 1. Applying for tenancy in a manufactured housing community

Most manufactured housing communities require tenancy applications from prospective tenants and subtenants (residents who rent the home and sublease the lot from the homeowner).<sup>29</sup>

### a. Application process.

**(1) Credit verification.** It is reasonable for a community owner/operator to require you to complete a credit application so that your creditworthiness can be determined. However, you cannot be required to provide more than three credit references. 940 C.M.R. 10.03(6). The community owner/operator must bear the costs of credit verification, and may not charge you any other fees associated with your tenancy application. 940 C.M.R. 10.03(2)(c). All credit verifications must be accomplished through recognized credit verification sources and in accordance with applicable law. 940 C.M.R. 10.03(6).

**(2) Ten-day approval period.** If the owner/operator fails to notify you of any rejection and reasons for the rejection within 10 days of his or her receipt of your tenancy application, then your application will be deemed approved. 940 C.M.R. 10.07(2).

**(3) What if your application is disapproved?** If your tenancy application is rejected and you have already signed a purchase contract for your manufactured home, you have the right to rescind your agreement to purchase the home. 940 C.M.R. 10.06(3)(b).

**(4) Application and entrance fees prohibited.** A community operator may not charge you an application or entrance fee when you become a resident. 940 C.M.R. 10.03(2)(a) & (c).

**b. Limitations on disapproving tenancy applications.** As long as you meet the currently enforceable rules of the community and provide reasonable evidence of your financial ability to pay the rent, the community owner/operator must allow you and your household to reside in the community.

**(1) No objections based on condition of home or lot.** As a general rule, the community owner/operator may not refuse your tenancy application because the home or lot does not comply with the community rules. 940 C.M.R. 10.07(6)(c). He or she also may not object on the basis of the age of the home, or because the home was constructed prior to 1976 and does not conform to current federal construction standards. 940 C.M.R. 10.07(6)(a) & (b). There is one exception: the owner/operator may object to the condition of the home or lot if, before the home was offered for sale, he or she notified the selling homeowner in writing that the home was not in compliance with a community rule, gave the owner a reasonable amount of time to correct the condition, and the homeowner failed to correct the condition. 940 C.M.R. 10.07(6)(c).

**(2) Monies owed to community owner/operator.** The community owner/operator may not refuse your residency application because the previous resident allegedly owes back rent, taxes, or other charges. The owner/operator also may not attempt to collect any of those prior debts from you. 940 C.M.R. 10.07(1)(b).

**(3) Unlawful discrimination.** A community owner/operator may not refuse you or members of your household entrance into the community based upon your race, religious creed, color, national origin, sex, sexual orientation, age, ancestry, marital status, familial status, veteran status or membership in the armed forces, blindness, hearing impairment, or other handicap, or upon any other ground prohibited by either the Federal Fair Housing Act (42 U.S.C. §§ 3601-3619), or the states anti-discrimination law (M.G.L. c. 151B). See 940 C.M.R. 10.03(1)(b) & (c).<sup>30</sup> You cannot be refused entrance because you are on welfare, have a governmental rental subsidy, such as a Section 8 housing certificate, or have children.

**(4) Unlawful occupancy restriction.** A community owner/operator may not refuse you or members of you household entrance into the community based upon an unreasonable restriction on the number of occupants allowed in your home. See Section II.D.7.d of this guide.

## 2. Required written disclosures

The community owner/operator must disclose, in writing, all conditions of occupancy to: prospective tenants; any existing tenants whose current tenancy is being amended, renewed or extended; and approved subtenants. The required written disclosures include, at a minimum, the following:

- the amount of rent;
- a list of usual charges and fees (if you request it, you must also be given a statement of charges and fees over the past 12 months, and an estimate for the next 12 months);
- the proposed terms of occupancy;
- the names and address of all owners and operators of the community (if the community is owned by a corporation or other entity, you must be given the names and addresses of the principal beneficial owners of the corporation);
- the community rules;
- the size and location of the manufactured homesite, including any known defects;
- a description of the common areas and facilities, with any restrictions on their use; and
- a verbatim copy of the "Important Notice Required By Law" set forth in M.G.L. c. 140, § 32P (Appendix C).

These written disclosures must be signed and delivered to residents at least 72 hours before the signing of any occupancy agreement or the beginning of the new occupancy.<sup>31</sup> 940 C.M.R. 10.03(4).

## 3. Your written occupancy agreement

**a. What is an occupancy agreement?** An occupancy agreement is different from the community rules, which are discussed below. In essence, an occupancy agreement is any written agreement between you and your community owner/operator that sets out

both parties' rights and responsibilities. It can take the form of a lease or it can be an entirely separate document addressing the terms of your occupancy other than rent and when your tenancy ends.

**b. Prohibited provisions.** There are limitations on what your community owner/operator may legally include in your occupancy agreement, such as:

(1) Your agreement cannot contain any provision that conflicts with any provision of the Act or the Attorney General's Regulations. 940 C.M.R. 10.02(2). Thus, you cannot be required to give up any of your legal benefits or protections, and any such provision is unenforceable.

(2) If your agreement provides that your community owner/operator can recover attorneys' fees and expenses from you for a violation of the occupancy agreement, then it must also provide that you may recover your attorneys' fees and expenses from the community owner/operator if you should prevail in a legal dispute between you. 940 C.M.R. 10.03(2)(j).

(3) The occupancy agreement cannot require you to maintain insurance, unless it is available at reasonable rates. M.G.L. c. 140, § 32L(3); 940 C.M.R. 10.03(9)(a).<sup>32</sup>

(4) The occupancy agreement cannot impose liability on you without regard to whether you are at fault. 940 C.M.R. 10.03(9)(b). For example, if someone is injured on your lot by a falling tree branch, your community owner/operator cannot shift all potential liability to you in the occupancy agreement.

(5) Your occupancy agreement may not include any restriction that is unreasonable, unfair or unconscionable. 940 C.M.R. 10.02(1). This broad provision effectively prevents your community owner/operator from imposing in your occupancy agreement any requirement that he or she could not impose in the community rules.

**c. No unilateral changes.** An occupancy agreement cannot be changed during the period specified in the agreement, unless you and your community owner/operator both agree to do so. During the period of the agreement, your community owner/operator may not change your agreement about rent, impose a new fee, or change any other terms or conditions of your tenancy, except to the extent specifically provided either in the occupancy agreement or under any applicable local rent control law. 940 C.M.R. 10.02(8).

#### 4. Types of tenancies

Some of your rights as a tenant are determined by what kind of tenancy you have. In manufactured housing communities, there are two main types of tenancies: tenancy by lease, and tenancy by will.

**a. Tenancy by lease.** A lease is a written agreement between a community owner/operator and a tenant, which both of you must sign. Within 30 days of signing it, your community owner/operator must give you a copy. The lease must include the following information: the amount of rent; the date on which your tenancy ends; the amount of your security deposit, if you paid one; all your rights concerning the security deposit; and



the names, addresses, and phone numbers of your community owner/operator, every other person responsible for maintaining the property, and the person authorized to receive notices and court papers. During the time period of the lease, your community owner/operator cannot change your agreement on rent or charge you new fees.

There are two major advantages to having a written lease. First, a lease offers you more security because your community owner/operator cannot evict you until your lease ends, unless you violate or "breach" your lease. Second, your community owner/operator cannot change your agreement on rent until the term of the lease is over. The primary disadvantage of a lease is that if you move out before your lease ends, your community owner/operator may try to force you to pay the rent until your lease ends. Whether you have to do so depends on the circumstances, such as whether the community owner/operator began to look for another tenant as soon as you gave notice that you were leaving.

**(1) Five-year lease option.** Under the Manufactured Housing Act, a community owner/operator must make a good faith offer of a five-year written lease to each tenant.<sup>33</sup> This is true whether you are a new tenant, or you are already living in a community and the community owner/operator is renewing or extending your tenancy. The rent offered for the five-year term must be at fair market rental rates;<sup>34</sup> and where there is local rent control, the rent is further subject to those laws. M.G.L. c.140, § 32P; 940 C.M.R. 10.03(5).

**b. Tenancy at will.** If you are living in your community with the permission of the community owner/operator but without a written lease, you are a tenant at will. This type of tenancy is also referred to as a month-to-month tenancy, because tenants are usually required to pay rent once a month, in advance. The law says you are a tenant at will if: you have an oral agreement to rent; you have a written lease that does not state the date on which your tenancy will end or the amount of the rent; your written lease has ended or "expired," you have not signed a new lease, and your community owner/operator continues to accept your rent without objection; or you have a written tenancy at will agreement that says you have a month-to-month tenancy.

**c. Sub-tenancy or assignment.** If you rent, instead of purchase, a manufactured home from a homeowner, and you assume the responsibility for the lot rental payment, then you are a subtenant or assignee of the manufactured housing lot.<sup>35</sup> Many manufactured housing communities require a potential subtenant or assignee to undergo the same application and approval process as that for tenants.

## 5. Community Rules

Under the Manufactured Housing Act, a community owner/operator may have rules governing residents' use of the community. M.G.L. c. 140, § 32L(1). Before you agree to rent a lot in a community, the community owner/operator is required to give you a set of these rules, which you should read carefully. A "substantial" violation of a rule may create a basis for termination of your tenancy and eviction. M.G.L. c. 140, § 32J. See Section II.K.2.b of this guide.

**a. All rules must be in writing.** All community rules must be in writing, and must be sufficiently detailed and clear so that you and other residents understand what you are required to do, what you are prohibited or restricted from doing, and any other limitations that are placed on your residency. 940 C.M.R. 10.04(2)(b).

**b. All rules must comply with the law and be reasonable.** Rules are unenforceable if they violate the Act, the Regulations, or other laws protecting the health, safety or welfare of consumers. Rules are also unenforceable if they are unreasonable, unfair, unconscionable, or deceptive. Some of the standards for reasonable terms and conditions of occupancy are set forth in the Attorney General's Regulations. E.g., 940 C.M.R. 10.03-10.05.

**c. Signature requirement prohibited.** Unlike a lease, community rules are not a contract; you cannot be required to sign the rules, although your community owner/operator can require you to sign a separate receipt acknowledging that you have received a copy of the rules. Your community owner/operator is required to sign the rules, however. M.G.L. c.140, § 32P.

**d. All rules must be uniformly enforced.** Your community owner/operator may not selectively enforce the community rules, that is, he or she may not apply a rule against you and not against others. M.G.L. c. 140, § 32L(2); 940 C.M.R. 10.04(2)(b).

**e. All rules must be reviewed by the AGO and the Department of Housing and Community Development.** The community's rules are subject to the review and allowance by the Consumer Protection Division of the AGO and the Director of DHCD. M.G.L. c. 140, § 32L(5); 940 C.M.R. 10.04(1)(a)(2).

**f. Review process.** When your community owner/operator issues either new rules or changes to existing rules, he or she will propose a date upon which he or she would like to make the proposed rules effective. He or she must follow the procedure set forth at M.G.L. c. 140, § 32L(5) and 940 C.M.R. 10.04(3), which can be summarized as follows:

- At least 75 days before the proposed effective date, the community owner/operator must both send a copy to any residents' or tenants' association and conspicuously post a copy in a common area of the community. These copies must be accompanied by a notice informing residents of their right to submit comments to both their community owner/operator and the AGO. 940 C.M.R. 10.04(3)(a). A model notice satisfying the regulatory requirements is attached as Appendix E.
- At least 60 days before the proposed effective date, the owner/operator must send the rules by certified mail to both the AGO and DHCD for approval.
- At least 30 days before the proposed effective date, the owner/operator must send or deliver to each resident a copy of the rules, any amendments or deletions made since the submission to the AGO and DHCD, and copies of the certified mail receipts showing that the rules were properly submitted to both the AGO and DHCD.
- Following submission of the rules, the AGO will review the rules, consider any written comments received from residents, and ultimately respond to the community owner/operator with written objections, where necessary. The AGO will always attempt to complete its review within 60 days.
- By the proposed effective date, if your community owner/operator has not received any response from the AGO or DHCD concerning the acceptability of the community rules, he or she may temporarily put the proposed rules into effect. However, once he or she is subsequently notified that any rule is not satisfactory to the AGO or DHCD, each such rule, from that point onward, is no longer enforceable, and must be modified as necessary for allowance and then redistributed to residents.

**g. The Attorney General's Model Rules for Manufactured Housing Community Living.** The AGO has developed a set of model community rules, which are attached as Appendix B. All community owner/operators are encouraged to use these rules for their communities. Owner/operators who adopt the model rules must still follow the review process described above, but using the model rules can save time and resources, because owner/operators can be assured that the rules are reasonable, meet the requirements of the Act and Regulations, and will be favorably reviewed by the AGO.

**h. All rules must be conspicuously posted.** The community rules must be conspicuously posted near the entrance to the community or in a conspicuous place at the office of any on-site manager. M.G.L. c. 140, § 32D.

**i. Right to legally challenge community rule.** If you believe that any rule is unlawful, you may challenge that rule in any court of competent jurisdiction. As long as you have a basis for your challenge, you may exercise this right to challenge any rule, even if it is temporarily enforceable pending the determinations of the AGO and DHCD, or if neither the AGO or DHCD has objected to it. 940 C.M.R. 10.04(3)(b).

## **6. Security Deposit**

Your community owner/operator can require you to pay a security deposit equal to one month's rent on your lot. The purpose of a security deposit is to protect the community owner/operator in case you damage the lot or leave owing rent. A security deposit is subject to the strict provisions of M.G.L. c. 186, § 15B, the Massachusetts security deposit law. Because the law considers this deposit your money, your community owner/operator must give you a written receipt<sup>36</sup> and a statement that describes the condition of your lot upon your renting it, and must hold your money in a separate bank account, pay you annual interest on it, and refund it promptly at the end of your tenancy. Any violation by your community owner/operator of the security deposit statute entitles you to an immediate return of your entire deposit, and, under certain circumstances, up to treble damages.

## **D. Community Conditions**

The conditions under which you will live in your manufactured housing community will most likely be addressed in the community rules. The rules must comply with the standards established under the Act and the Regulations. The substance of these standards are described below.

### **1. Community owner/operator's maintenance responsibilities**

**a. Common areas.** It is the community owner/operator's responsibility to keep all common areas and facilities clean, safe, in good repair, and in compliance with any applicable health and safety laws. 940 C.M.R. 10.05(7); 105 C.M.R. 410.602. This requirement includes plowing and maintaining the community common areas and roadways, as discussed below, and providing and paying for certain safety features such as lighting, where necessary.

**b. Garbage pickup.** A community owner/operator must provide a system for the final pickup of garbage and rubbish. Your community owner/operator may establish any reasonable schedule for garbage pickup and may require you to comply with



community rules regarding storage of garbage for pickup. You may also be required to comply with recycling rules imposed by the town in which the community is located. Your community owner/operator cannot impose a direct fee for the pickup of recycled materials, but these costs may be recovered through non-discriminatory rent increases. 940 C.M.R. 10.05(8).

**c. Road maintenance.** A community owner/operator is responsible for making sure that the community roadways are safe and in good repair, and is responsible for removing debris, filling potholes, and snowplowing. 940 C.M.R. 10.05(9).

**d. Hazardous conditions.** A community owner/operator is responsible for removing or repairing naturally occurring hazardous conditions that an appropriate governmental authority determines pose a risk to the safety of tenants or their homes, for example, hazardous trees or tree limbs. 940 C.M.R. 10.05(10).

**e. Utility systems maintenance.** A community owner/operator is responsible for supplying, maintaining, repairing and paying for utilities to the point of connection at each manufactured home. The required utilities include drinkable water, a functioning sewage disposal system, electricity, and natural gas or other heating fuel unless that fuel is individually metered. 940 C.M.R. 10.05(4). See Sections II.D.2.d and II.D.8 of this guide.

**f. Upkeep of driveways and sidewalks.** It is your community owner/operator's responsibility to repave driveways and sidewalks when necessary, as these are permanent elements of your lot or the community. 940 C.M.R. 10.04(5)(f).

**g. Compliance with sanitary standards.** When the local board of health issues the annual license to a manufactured housing community, the Department of Environmental Protection ("DEP") receives notification from the board and is authorized to then inspect the manufactured housing community to ensure that the water supply and sewerage disposal system are sanitary. A manufactured housing community has 30 days in which to correct any noncompliance. If the community fails to comply, the local board of health shall revoke or suspend the license until compliance occurs. M.G.L. c. 140, § 32B. The board of health is further required to inspect all communities occasionally to ensure that the communities are in compliance with sanitary requirements. The board may suspend or revoke a license for noncompliance. M.G.L. c. 140, § 32C. A daily fine of \$100 is imposed for each day a community remains unlicensed or in violation of the Act. M.G.L. c. 140, § 32E.

## 2. Tenant's maintenance responsibilities

**a. Upkeep of home's exterior and lot.** Your community owner/operator can require you to keep your home's exterior and lot neat and in good repair. 940 C.M.R. 10.04(5)(a). He or she must be specific in the community rules, however, about what is required of you in this respect.

**b. Compliance with community aesthetic standards.** A community owner/operator may set "aesthetic standards" governing the look or style of the site and the home's exterior. Aesthetic standards must be "reasonable" – that is, not overly burdensome or expensive.

**(1) Specificity required.** Any community rule that requires you to comply with aesthetic standards must be specific. A rule requiring simply that you keep your home's exterior in good repair is too vague. An acceptable rule would require, for example, that you maintain the exterior of your home clean or free from visible cracks, rust, or peeling paint, or keep your lawn from becoming overgrown.

**(2) Rules requiring major changes in the style of the home.** In general, aesthetic standards must be applied consistently throughout the community and disclosed before you enter the community. 940 C.M.R. 10.04(5)(b). You should not be required to make major changes to your home after you have been living in the community for some time. Newly adopted aesthetic standards requiring such changes generally are unreasonable, except where they apply only to new homes being brought into the community.

**(3) Pre-1976 homes.** A community owner/operator may not force a tenant who owns a pre-1976 home to change it in a way that is impractical due to the design or poor physical condition of the home. 940 C.M.R. 10.04(5)(b).

**c. Interior of home.** You are responsible for making sure that the interior of your home complies with governmental health, safety, and other laws. Only appropriate governmental authorities (e.g., the local board of health or fire department), however, and not your community owner/operator, may enforce these laws. 940 C.M.R. 10.04(6).

**d. Utilities inside your home.** Damage to, or malfunction of, any utilities inside your home is your responsibility. Although your community owner/operator is generally responsible for utilities and connections outside your home, you may be responsible for any damage that you negligently or purposely cause to these systems or connections (e.g., if you stop up a sewage disposal system through improper disposal). 940 C.M.R. 10.05 (4)(d). Finally, your community owner/operator may require you to upgrade your interior plumbing or wiring systems only to the extent that he or she can demonstrate the need for the upgrade to ensure the health and safety of residents, and then only on a non-discriminatory basis.

**e. Failure by tenant to maintain home's exterior or lot.** If you fail to maintain your lot or home as required by reasonable community rules, then your community owner/operator may have the necessary work done and charge you for the maintenance. Your community owner/operator cannot do this, however, unless you request such work, or the work is accomplished in compliance with 940 C.M.R. 10.04(5)(d)(1)-(4). In particular, the community owner/operator cannot charge you for such maintenance work unless both your occupancy agreement and the community rules allow it, and the owner/operator provides you with written notice of the specific work required, the amount you will be charged, and all other information detailed in 940 C.M.R. 10.04(5)(d). If you receive this notice and do not have the work performed yourself, then your community owner/operator can have the work performed at your expense no sooner than 10 days from the date you receive the notice.

### 3. Pet ownership

Pet ownership can enhance both happiness and security for many people. In addition, pet ownership can be of critical importance to a person who is elderly, handicapped, or lives alone.

At the same time, pets can be irritating or intimidating to others. A dog who barks incessantly, runs freely, gets into garbage, or leaves droppings in common areas or yards, is not a welcome member of a community.

**a. Service animals.** Your community owner/operator may not restrict seeing-eye dogs or other service animals that are necessary to assist a disabled resident.

**b. Indoor pets.** Your community owner/operator may not restrict pets that live solely within your home, so long as they do not create a disturbance to other tenants. 940 C.M.R. 10.04(10). Examples of a such a disturbance might include: a pet that frequently barks and disturbs others; or a pet which would pose a substantial danger to other residents if it escaped outside; and whose owner has not taken reasonable precautions to ensure against such a problem.

**c. Outdoor pets.** Your community owner/operator may reasonably restrict pets that go outside your home. 940 C.M.R. 10.04(10). For example, it is reasonable to require such animals: to be restrained by a leash or runner; to be picked up after, both on and off your lot; and to be monitored so that they do not disturb your neighbors or agitate other outdoor pets.

**d. Pet fees.** Your community owner/operator may not charge any type of pet fee or rent for an indoor pet or a service animal. A fee for any other pet may be charged only if the fee directly relates to the actual cost of providing a pet service or facility. 940 C.M.R. 10.03(2)(g).

#### 4. Leasing your home and subleasing your lot

Some community owner/operators and residents alike have concerns when residents lease their homes and sublease the underlying lot to a subtenant. On the one hand, neighboring residents may not feel comfortable with the turnover in your home, especially if it is a retirement community, and may worry that you will not maintain your home as well if you are not living there yourself. On the other hand, under some circumstances subleasing is necessary to avoid hardship. For example, where residents must relocate immediately – because of a new job or the need to move into a nursing home, for example – but cannot sell their home immediately. For these residents, leasing the home may be the only way to cover the expenses of keeping the home. Indeed, if you live in a community which is under a notice of discontinuance, selling your home may be virtually impossible and leasing may be your only option during the two-year discontinuance period.

**a. Unreasonable restrictions prohibited.** A community owner/operator may not place “unreasonable” restrictions on your ability to lease your home or sublease the underlying site. 940 C.M.R. 10.03(7). Whether a restriction is reasonable or not depends on the circumstances. For example, a community that offers lifetime leases may reasonably restrict assignment of a lease (but not necessarily subleases). It is probably unreasonable, however, to restrict subleasing if the restriction would put the homeowner in financial jeopardy. For example, if a homeowner is relocated by his or her employer, or becomes ill and cannot live there anymore, and then is unable to sell his or her home near its market value within a reasonable amount of time, a rule forbidding subleasing would be viewed as unreasonable.

**b. Subleasing restrictions must apply equally to all homes in the community.** Any restrictions on leasing homes and subleasing the lot must be applied uniformly to all homes in the community, including homes owned by the community owner/operator. Thus, a community owner/operator or manager who owns and leases homes within the community cannot prohibit you from leasing your home. 940 C.M.R. 10.03(7).

**c. Communities under a notice of discontinuance.** Where a community is under a notice of discontinuance, no subleasing restrictions are permissible. Since it is unlikely that a tenant can sell his or her home under these circumstances, subleasing must be permitted. 940 C.M.R. 10.03(7).

## 5. Guests

As a resident of a manufactured housing community, you have the right to invite guests into your home. Your community owner/operator may not attempt to restrict who is permitted to visit your home, how long they may stay, or when they may visit. 940 C.M.R. 10.04(4).

**a. Who is a guest?** The Regulations define a guest as a person who lives in your home for fewer than 90 days in any 12-month period. 940 C.M.R. 10.01.

**b. Guest registration prohibited.** A community owner/operator may not require the registration of your guests. 940 C.M.R. 10.04(4).

**c. Retirement communities.** In a qualified retirement community, restrictions on underage guests and their length of stay, activities, and access to facilities may be reasonable, even though such restrictions would not be permissible in a family community.

**d. Guest fees.** Your community owner/operator may not charge a fee for your guests, with one exception. If permitted under your written occupancy agreement, your community owner/operator may charge a user fee for your guest's use of a community recreational facility or storage area, so long as the fee reasonably relates to the cost of providing and maintaining the facility. 940 C.M.R. 10.03(2)(h).

**e. Guest parking.** If your community has a guest parking lot, guests can be required to park there. Otherwise, your guests cannot be unreasonably restricted from parking at your lot or on adjacent roadways. 940 C.M.R. 10.04(7).

## 6. Common areas and facilities

"Common areas and facilities" are defined by the Regulations to include areas and facilities in the community that fall outside a tenant's own lot, but are generally accessible and available for use by tenants. Examples of common areas and facilities include the community's roads, sidewalks, common parking areas, common storage areas, common social and recreational areas – such as swimming pools, playgrounds, pet exercise areas, and community centers – and common operational facilities and utilities. 940 C.M.R. 10.01. Before you begin or renew your tenancy, your community owner/operator is required to provide you with a written description (i.e., in your written disclosures, lease, or occupancy agreement) of all common areas and facilities, and any restrictions on their use, before you begin or renew your tenancy.

**a. Access by tenants.** Common areas and facilities should be generally available for use by any tenant. Your community owner/operator must conspicuously post the hours of operation for any common areas or facilities that are not open at all times, such as a swimming pool or a community center. 940 C.M.R. 10.05(7). Physical access to certain types of common facilities – specifically, utilities or sewage disposal systems – may be reasonably restricted by your community owner/operator in the community rules or written disclosures. 940 C.M.R. 10.03(4)(g).

**b. Access by guests.** Your guests may not be unreasonably restricted from community services or facilities. A restriction may be reasonable if it is based on limited resources, such as insufficient space. For example, where space is limited, the community rules might reasonably limit the number of guests that you may invite at one time to a community pool or other common area, or a retirement community might reasonably limit access by children to certain facilities so as to preserve the residents' quiet enjoyment of the community. 940 C.M.R. 10.04(4).

**c. Access fees.** In general, you may not be charged a fee for your use of a common area or facility, but there are some exceptions. A "user's fee" may be charged for recreational or storage areas, as long as it reasonably relates to the cost of providing and maintaining the common area or facility. In addition, you may be charged a reasonable fee if you use common areas or facilities for a private recreational or social function that you host. 940 C.M.R. 10.03(2)(d) & (h).

**d. Access for residents' meetings.** Common areas or facilities, if not otherwise in use, may be used by residents to meet to discuss the community's affairs or meet with public officials, political candidates, or representatives of other manufactured housing communities. No fee may be charged for such usage. 940 C.M.R. 10.04(9).

**e. Road access.** Your community owner/operator is responsible for ensuring that the community's roads are accessible to you, your guests, service providers, emergency vehicles, school buses, and elderly or handicapped vans or buses. If the width of the community roads will not accommodate school buses, then your community owner/operator must provide a central bus stop within your community. A community owner/operator may impose reasonable security measures designed to provide tenant security, such as a security booth at the community's entrance, so long as emergency vehicles have access at all times. 940 C.M.R. 10.05(9).

**f. Restrictions must be "reasonable."** Any restrictions on the use of common areas or facilities must be reasonable and apply equally to all residents. See Sections II. C.5.b & d of this guide. Imposing special restrictions on families with children, therefore, may not be reasonable. Rules that impose curfews or prohibit children from leaving their lot without an adult, bicycle-riding, ball-playing, or other playing in common areas are usually unreasonable. Children should be permitted the same freedoms they would enjoy in a single-family neighborhood in your town. The only exception is in a qualified retirement community, where children's activities may be restricted in order to preserve the quiet enjoyment of the residents. 940 C.M.R. 10.03(1)(b) - (d).



## 7. Tenant's right to privacy and control over the leased homesite

As a resident of a manufactured housing community, you should generally be accorded the same privacy and control over your homesite as if you had rented an apartment, or purchased a condominium or site-built home in a development. Community owner/operators have a legitimate right to enact rules to protect the health, safety and quiet enjoyment of the community, and to keep the community neat and clean. However, rules that purport to govern the conduct of a homeowner within his or her own home, or on his or her leased lot – where safety, health or aesthetics are not at issue – are usually unreasonable.

**a. Access to your home by the community owner/operator.** Your community owner/operator may not enter your home at any time without your prior written consent, which you may revoke at any time. The written consent cannot be contained in a lease, occupancy agreement, inspection report, or other such general document, but must be set forth specifically in a separate document which deals with no other subjects. 940 C.M.R. 10.03(8)(a).

**b. Access to your homesite by the community owner/operator.** In general, your community owner/operator may not enter upon your leased lot without your permission. He or she may enter the site without permission only to check if it has been abandoned, inspect it, show it prior to re-leasing it, or make repairs in accordance with 940 C.M.R. 10.04(5)(d).

Normally, before entering onto your lot your community owner/operator must give you "reasonable" notice – i.e., 24 hours notice – unless there is an emergency that creates an immediate threat to the property or tenant safety. 940 C.M.R. 10.03(8)(b). See M.G.L. c. 186, §15B(1)(a)(i), (ii) & (iii).

**c. Control over the interior of your home.** You have the right to control the interior of your own home. Thus, it is generally unreasonable for the community owner/operator to impose rules relating to interior decorating, interior equipment or maintenance, activities inside your home, or other aspects of your personal life. 940 C.M.R. 10.04(6). The owner/operator may regulate conduct that may have a negative effect on other community residents. Thus, it is generally reasonable to limit noise coming from your home during certain hours, regulate residents' disposal of waste into a community sewage disposal system, or restrict fire hazards.

**d. Occupancy.** Your community owner/operator may not restrict the number of occupants of your home beyond any applicable and valid restrictions in local, state or federal law. 940 C.M.R. 10.03(1)(a). Occupancy restrictions may be invalid if they have the effect of discriminating unlawfully. Examples of such unlawful discrimination would be restrictions which, in general access communities, have the effect of denying housing to families with children. Also, restrictions that result in denial of housing to individuals with disabilities may also be impermissible. In general, according to the standards of the United States Department of Housing and Urban Development, it is reasonable to allow no more than two persons per bedroom, unless such a restriction, as applied, would result in impermissible discrimination.

**e. Control over your leased homesite.** Just like an apartment renter or a site-built homeowner, you are entitled to use your leased homesite in any reasonable way. Thus, although your community rules may address important concerns related to upkeep

or aesthetics, you cannot be subjected to intrusive, burdensome, or arbitrary rules governing your lot. See M.G.L. c. 140 § 32L(1). Examples of such impermissible rules may include, in family communities, prohibitions on children's riding bicycles, or, in all communities, banning the storage of items under your home or in your shed.

**f. Additions or modifications.** If you plan to add to or modify your home or site, your community owner/operator may reasonably require you to submit proposed plans to him or her in order to ensure that aesthetic standards will be met. However, so long as your proposal complies with local building codes and setback requirements, complies with the community's aesthetic standards, and creates no significant problem for neighboring lots, your community owner/operator should not withhold approval. In general, it is unreasonable to prohibit a homeowner from making necessary modifications – such as a ramp, widened doorway, or handrails – for the purpose of accommodating a disabled household member. See 940 C.M.R. 10.03(1)(c).

**g. Non-residential use of your home or leased homesite.** In general, non-residential activities in your home or at your homesite are permissible, so long as they are consistent with using the home as a residence, comply with local zoning and other laws, and do not substantially disrupt the residential character of the community. For example, yard sales are generally permissible, but your community rules may reasonably restrict when, where or how they are held. Home offices are also generally permissible, although if your business causes a significant increase in the number of cars traveling through the community, it may not be reasonable. 940 C.M.R. 10.04(8).

**h. Storage beneath your home and on your lot.** As long as you do not create a fire hazard or aesthetic problem, you should be allowed to store your belongings under your own home or in a storage shed on your lot.

**i. Right to choose sellers and suppliers.** You have the right to choose who will perform work on your home, supply you with materials or provide any goods or services you need, such as fuel, furnishings, goods, services, or accessories. Your community owner/operator may not limit you to a particular supplier or group of suppliers, but he or she may require such vendors to comply with applicable laws and reasonable community rules, including reasonable insurance requirements.<sup>37</sup> A community operator may also restrict residents from using a particular supplier who has been the subject of complaints to the AGO, the Better Business Bureau, or applicable government agencies. 940 C.M.R. 10.05(1). Your community owner/operator may not, directly or indirectly, charge, demand or receive any fee, amount, "kickback," or other consideration from any supplier. 940 C.M.R. 10.05(3). Finally, if your community owner/operator offers to perform work or provide you with materials, he or she must also inform you in writing of your right to obtain such goods and services from other providers. 940 C.M.R. 10.05(1)(b).

## 8. Utilities

**a. Required utilities and payment obligations.** Under the Regulations and the State Sanitary Code, your community owner/operator must provide and pay for utility connections for water, a functioning sewage disposal system, electricity, and natural gas or other heating fuel except that which is individually metered. 940 C.M.R. 10.05(4)(b); 105 C.M.R. 410.351. See Sections II.D.1.e and II.D.2.d of this guide. You cannot be directly charged for your use of any utility unless there is individual metering by a

utility company, and your occupancy agreement provides for such a charge. 940 C.M.R. 10.05(4)(b)(3) and 10.05(4)(e). Your community owner/operator, however, can recover the cost of providing utilities to you indirectly through your rent, as long as such costs are distributed equally among all households. 940 C.M.R. 10.05(4)(c).

**b. Utility shutoffs.** Your community owner/operator may not purposefully shut off any of your utilities, for any reason, without your permission. M.G.L. c. 186, § 14; 940 C.M.R. 10.05(f).

**c. Central fuel systems.** Although generally you are free to use a fuel dealer of your choosing, if your community has a central fuel and gas meter system, your community owner/operator may limit your ability to choose a fuel dealer. However, your fuel charges may not exceed the average prevailing price for such fuel in your locality. M.G.L. c. 140, § 32L(3A); 940 C.M.R. 10.05(2).

**d. Electricity.** Your community owner/operator must supply your home with enough electricity to meet the reasonable needs of your household and comply with the Massachusetts Electrical Code (527 C.M.R. 12.00). If the electricity supply is inadequate under the Code, the community owner/operator must correct the problem without charge to residents. 940 C.M.R. 10.05(4)(a)(1). Community rules that limit the use of ordinary household appliances are generally issued to address inadequate and unsafe supplies of electricity, and are thus usually unreasonable.

**e. Water.** Your community owner/operator is responsible for supplying your ordinary household needs for drinkable water that is sufficient in both supply and pressure. Your community must be connected to a public water supply system, or an alternative source that does not endanger your health. 940 C.M.R. 10.05(4)(b)(1). Insufficient water supply can sometimes result when a community owner/operator increases the number of homesites in a community without upgrading the water system at the same time. Contaminated water can often result from inadequate sewage disposal systems. Should such conditions occur, your community owner/operator must correct them immediately.

**f. Natural gas.** Your community owner/operator is responsible for providing you with a natural gas connection, provided such a connection is economically reasonable. 940 C.M.R. 10.05(4)(a)(2). In general, it would not be economically reasonable to require a natural gas connection in communities that provide oil heat facilities in a manner that complies with applicable health, safety and environmental laws.

**g. Sewage disposal.** Your community owner/operator must ensure that your household is connected to a sanitary sewage disposal system. 940 C.M.R. 10.05(4)(b)(2). If it is not practicable for your community to be connected to a public sewerage system because of distance or ground conditions, then you must be connected to another means of sewage disposal that complies with the requirements of 310 C.M.R. 15.00. Many communities use septic tanks, which have a limited lifetime and sometimes require periodic pumping. The community owner/operator is responsible for ensuring that, where necessary, periodic pumping takes place and inadequate tanks are replaced. In addition, if your community owner/operator adds new homesites to your community, he or she must ensure that existing sewage disposal systems are not overburdened.



**h. Oil storage tanks.** In recent years, community owner/operators have become concerned about their potential legal liability stemming from the environmental risks posed by leaking underground oil storage tanks. The Regulations require that the cost of removing or replacing an oil storage tank should be initially incurred by the community owner/operator, who is usually better able to pay for or finance these costs upfront. Thus, you may not be charged directly for the removal or replacement of oil storage tanks, but your community owner/operator may eventually recover such costs as capital improvements, in the manner allowed by law. 940 C.M.R. 10.03(2)(n). This general rule applies whether the tank is above<sup>38</sup> or below-ground. There is one exception to the general rule: where your negligence has caused the environmental concern or risk posed by the oil tank, you may be held directly responsible for removing or replacing it. 940 C.M.R. 10.03(2)(n).

**i. Paying for failed utilities.** Although community owner/operators generally may recover utility repair costs as capital improvements, there is one important exception: where the community owner/operator failed to upgrade or repair sewer, water, gas or electrical systems to meet existing minimum standards required by law. 940 C.M.R. 10.03(2)(m). For a further discussion of this exception, see Section II.F.2 of this guide.

**j. Who to call concerning utility failure.** If you have concerns that your sewer, water, gas or electrical systems have failed and pose health risks, you should notify your community owner/operator and if necessary, the local board of health, or the state Department of Environmental Protection.

**k. Television.** It is generally unreasonable to flatly prohibit television antennae or satellite dishes, as such a rule could substantially interfere with or prevent television reception. Your community owner/operator also may not restrict your access to a cable television service offered by a licensed municipality. M.G.L. c. 166A, § 22. In addition, your community owner/operator may not unreasonably restrict your access to a satellite television transmission service. 940 C.M.R. 10.05(5). A community owner/operator may, however, place reasonable restrictions on the size, type, or location of such equipment, in order to satisfy aesthetic standards. Finally, if you opt not to have cable or satellite television service, your community owner/operator may not require you to receive or pay for such service. 940 C.M.R. 10.05(6).

## 9. Motor vehicles

**a. Parking.** You have the right to park up to two personal vehicles on your own lot, space permitting. 940 C.M.R. 10.04(7). For guest parking, see Section II.D.5.e of this guide.

**b. Maintenance.** You generally have the right to perform minor car maintenance or repairs at your lot, such as changing tires or replacing a headlight. The community owner/operator may reasonably restrict you from performing major repairs that may generate debris, waste or noise. In particular, it is reasonable for oil changes and other maintenance involving hazardous waste to be prohibited. 940 C.M.R. 10.04(7).

**c. Unregistered and/or uninspected vehicles.** Your community owner/operator may reasonably restrict your keeping unregistered and/or uninspected vehicles at your lot. Such reasonable restrictions would include, for example, prohibiting, for aesthetic

or safety reasons, the permanent storage of cars in obviously bad repair. It would be unreasonable, however, to have a blanket ban on unregistered and/or uninspected vehicles, since there are times when a vehicle in good repair may be temporarily unregistered or uninspected – such as before sale, after purchase, or during a temporary period of time when it is not in use, perhaps because the owner is ill, temporarily unable to drive it, or away for an extended period of time.

**d. Motorcycles.** It is generally unreasonable to prohibit the ownership or riding of motorcycles in the community. The rules may reasonably require, however, that motorcycle drivers observe community traffic safety rules and refrain from interfering with residents' right to quiet enjoyment of the community by, for example, unnecessarily revving their engines.

**e. Boat and recreational vehicle storage.** Your community owner/operator may reasonably restrict storage of vehicles – other than your two personal vehicles – such as trailers, boats, recreational vehicles, and off-road vehicles. Reasonable restrictions may prohibit such storage on your lot because, for example, it would substantially interfere with the aesthetic standards of the community.

## 10. Homeowner associations and individual constitutional rights

Each resident has certain constitutional rights that cannot be prohibited or unreasonably restricted by a community owner/operator: the rights of free movement, speech, assembly, and/or association. Your community owner/operator may not restrict or prohibit tenants from meeting peacefully for any purpose, or prohibit the presence of any public official, candidate for public office, or representative of a tenants' or residents' organization. Many residents exercise their rights by forming associations,<sup>39</sup> and many belong to the statewide manufactured residents' association, the Mobilehome Federation of Massachusetts. Residents' associations serve several purposes, such as keeping residents informed about matters that may affect their residency; or representing residents in discussions or negotiations with the community owner/operator over such matters as rules, rent, or improvements to the community. In addition, the law provides certain special rights and protections to residents' associations and their members.

**a. Right of first refusal to purchase community.** Forming a residents' association is important if you hope to eventually purchase your community and form a cooperative community. The process for purchasing your community and the role of your association is described in Section II. J of this guide. Also see M.G.L. c. 140, §§ 32R(b) & (c).

**b. Notice of proposed new or amended community rules.** If your community owner/operator proposes to add or amend any community rules, any residents' or tenants' association must be given notice at least 75 days prior to the effective date of the proposed rules. 940 C.M.R. 10.04(3).

**c. Right to meet in common area or facility.** As discussed in Section II.D.6.d of this guide, your residents' association has the right to meet, at no charge, in any common area or facility not otherwise in use. 940 C.M.R. 10.04(9)(b).

**d. Freedom from interference.** You and other residents have the right to solicit membership or dues, either orally or in writing, in your residents' association without

interference from the community owner/operator. Peaceful canvassing, petitioning of residents, and distribution or circulation of oral or printed information within your community, is permissible for any noncommercial, political, or public purpose. 940 C.M.R. 10.04(9)(d) & (e).

**e. Freedom from retaliation.** A community owner/operator is prohibited from attempting to evict you or failing to renew your tenancy because you are a member of a residents' or tenants' association. 940 C.M.R. 10.08(4)(b).

## **E. Rent and Additional Fees**

### **1. The amount of rent and rent increases**

The amount of rent and rent increases are often the issue of greatest concern to those struggling to make ends meet. This is especially true in a manufactured housing community where, unlike an apartment dweller, you cannot easily move, and may have to sell your home, if the amount of rent causes you economic hardship. Unless you live in a rent-controlled community, the amount of rent and increases generally are at the discretion of your community owner/operator, with a few exceptions, described below.

**a. Uniform application of rent increases.** In general, any change in rent must be applied uniformly to all residents of a similar class. A rent increase that is not applied uniformly to residents who receive similar services and have similar lot sizes may be unfair under the Manufactured Housing Act. M.G.L. c. 140, § 32L(2).

**b. Tenants with leases.** If you have a written lease, your community owner/operator cannot increase your rent during the period of your lease, unless your lease states clearly and conspicuously the conditions upon which an automatic increase in rent shall be determined. 940 C.M.R. 3.17 (3)(2). In addition, if your lease has what is called a "tax escalator" clause, your community owner/operator may be able to increase your rent during the term of your lease if local property taxes go up.<sup>40</sup> M.G.L. c. 186, § 15C. Moreover, if you have a lease, your community owner/operator must send you notice of any rent increase before the date the lease must be renewed. If you receive a notice of a rent increase after your lease extension or renewal, that notice is ineffective and the new rent is not valid. Your community owner/operator must then wait until your new lease term expires before he or she can change the rent.

**c. Tenants at will.** If you are a tenant at will, your community owner/operator may impose a rent increase at any time, in any amount, as long as proper notice is given and it is uniformly applied. See Section II.E.e of this guide.

**d. Tenants in rent-controlled communities.** In certain cities and towns, residents have petitioned their local officials for rent control of the lots they rent in their communities.<sup>41</sup> If you live in a community that is under local rent control, your community owner/operator cannot increase rent until he or she has applied for a rent increase, and the local rent board has determined and approved that rent increase under the applicable rent control laws. 940 C.M.R. 10.03(2)(p). Under most local rent control schemes, tenants also have the right to object to proposed rent increases and to apply for rent decreases.

**e. Required notice of a rent increase.** If your community owner/operator wants to increase the rent for tenants at will, he or she must send a written notice at least 30 days (or one full rental period if it is longer than 30 days) in advance. M.G.L. c. 186, §§ 12-13. See M.G.L. c. 140, § 32J(5). Thus, if you pay rent on the first of the month and your community owner/operator wants a rent increase to be effective as of October 1, he or she must send you notice of a rent increase before September 1. If he or she sends you a rent increase notice on September 1 or any time after September 1, the rent increase would not be valid until November 1.

**(1) Termination of current tenancy.** Any rent increase that you receive will most likely include a "Notice to Quit." If you receive such a Notice to Quit with a notice of rent increase, do not panic! You do not have to leave by the date on the notice; this is simply a technically required first step before your community owner/operator can terminate your tenancy at the old rent and offer a new tenancy at the higher rent level. If you refuse to pay the increase, however, your community owner/operator, will have the option to begin an eviction case in court. He or she will only be able to evict you if the court orders you to be evicted.

**f. Your options when you have received a rent increase notice.** In non-rent-controlled communities, if you receive a rent increase notice, you have a few options. First, you can simply pay the increase. Alternatively, you and other residents, or your residents' association may be able to convince your community owner/operator to reconsider the amount of the increase. This approach may be successful if residents show that the rent increase is unfair and your community owner/operator wants to maintain a good relationship with his residents. For particularly large increases, local officials may be able to assist in your discussions with your community owner/operator. If you cannot or do not want to pay the increase, then you should try to sell your home. If you do not pay the increase, your community owner/operator may bring an eviction case against you and will likely get permission to evict you. Once that occurs, you can ask the judge for up to six months to sell your home and find a new place to live. In addition, elderly or disabled residents may ask for up to a year to relocate.<sup>42</sup> M.G.L. c. 239, § 9.

**g. Retaliatory rent increases prohibited.** Your community owner/operator cannot raise your rent in retaliation for your asserting your rights. If your community owner/operator increases your rent within six months after you file a lawsuit against him or her, organize or join a residents' association, or report violations of the state sanitary code or other housing laws to the community owner/operator, his or her employees, or the board of health or other governmental agency, the law will presume that your community owner/operator is retaliating against you. The law authorizes a monetary penalty of up to three months' rent (or actual damages you suffer, whichever is greater) plus the cost of attorney's fees. The burden will be on your community owner/operator to prove that he or she was not retaliating against you. M.G.L. c.186, § 18; M.G.L. c. 239, § 2A; M.G.L. c. 140, § 32N; 940 C.M.R. 10.08(4).

**h. Late rent penalties.** If you are late paying your rent, your community owner/operator may attempt to charge you a late fee.<sup>43</sup> He or she can do so only under certain circumstances: your written occupancy agreement or lease must specifically allow for a late rent fee, and the amount charged must be reasonably intended to compensate the community owner/operator for the delay in payment. In any case, no late rent fee

may be charged unless and until your payment is at least 30 days overdue. 940 C.M.R. 10.03(2)(i).

## 2. Additional fees

Any other fees that your community owner/operator charges must be separately disclosed in writing at least 72 hours before the signing of your occupancy agreement, or before your tenancy begins or is renewed, whichever comes first. 940 C.M.R. 10.03(4)(b). The owner/operator may not recover any fee or charge that is not separately listed in the occupancy agreement (and/or written disclosures). See Section II.C.2 of this guide.

**a. New fees for old services.** During the term of your occupancy agreement, your community owner/operator cannot start charging you a separate fee for a service or facility that you previously received without charge. 940 C.M.R. 10.03(2)(o).

**b. Per capita fees.** Your community owner/operator is prohibited from charging per capita – or per person – fees for any new household members except under certain circumstances. Any such fee must be based on actual additional costs imposed on your community owner/operator as a direct result of the size of the household.<sup>44</sup> In addition, the total amount of rent charged cannot exceed that paid by other households in your community with the same number of adult residents (over age 18).<sup>45</sup> 940 C.M.R. 10.03(2)(e).

**c. Fees for special services.** If you request that your community owner/operator provide, and he or she actually does provide, a special service not otherwise required, he or she may charge you for that service. 940 C.M.R. 10.03(2)(b).

## 3. Keep good records

It is generally important to keep records of your rent and other fee payments, so as to avoid potential problems later on. Wherever possible, avoid paying your rent in cash unless you receive, at the time of payment, a written, signed, and dated receipt of your payment. In any case, it is generally a good policy to save the written record of your payments for rent or any other fees – whether they are in the form of written receipts, copies of money orders, or canceled checks. In addition, save all letters or written communication to or from your community owner/operator concerning any financial matters.

## F. Capital Improvements

A capital improvement is a major expense – other than ordinary repairs or maintenance – to improve or repair some service or facility in the community. Examples of such capital improvements include connecting your community to town water or sewer systems, or moving in-ground oil storage tanks above-ground to meet environmental concerns. Historically, community owner/operators have sometimes sought to shift the cost of such expensive improvements to tenants by assessing them directly for the costs. However, community owner/operators are usually better able than tenants to obtain financing for such improvements, and large assessments can impose a hardship on many tenants, especially those on small fixed incomes. Moreover, once they have been assessed, residents can lose all the value of permanent improvements should they have to move out soon after. The Regulations thus limit direct, lump-sum assessments of tenants, but generally allow a community owner/operator to recover the cost of improvements over time through rent increases, as long as such charge is



permitted in residents' leases, or, for tenants at will, as long as such charge is disclosed in their occupancy agreement.<sup>46</sup>

## 1. Payment for capital improvements

**a. Improvements totaling less than \$100 in the aggregate.** You may be required to pay your share of any capital improvement that has a total cost of \$100 or less. Such relatively small costs may be divided among community households and billed as a lump sum charge. 940 C.M.R. 10.03(2)(l).

**b. Improvements exceeding \$100 in the aggregate.** For improvements that cost more than \$100, your occupancy agreement must disclose and describe when and how special charges or fees may be imposed for extraordinary work, services, or repairs. In addition, the total expenses for the improvements must be "amortized" – that is, spread over the useful life of the improvement – and shared equally among the households in your community.

**Example.** Consider, for example, a community of 100 lots, which must be connected to the town sewer system at a total cost of \$200,000. Assume that the useful life of a new sewer system is 20 years. The \$200,000 expense must be amortized at the rate of \$10,000 per year ( $\$200,000 \div 20 \text{ years} = \$10,000 \text{ per year}$ ). This \$10,000 is the amount that the owner/operator may charge through to the 100 households in his or her community each year. Each household's share will be \$100 a year ( $\$10,000 \div 100 \text{ households} = \$100$ ), or \$8.33 per month ( $\$100 \div 12 \text{ months} = \$8.33$ ). Your community owner/operator thus could increase your rent \$8.33 per month for a period of 20 years. At the end of the 20-year period, however, this \$8.33 must be removed from your monthly rent.

## 2. Payment for repairs or upgrades necessary to meet minimum legal standards

The law presumes that you pay rent in exchange for a lot and common areas and utilities that meet the minimum standards required by law. Thus, your community owner/operator is expected to maintain sewer, water, gas or electrical systems "up to code." As explained above, the costs of maintaining utilities to meet code requirements generally may be passed through to tenants. As long as it is allowed for in the occupancy agreement, such a pass-through of costs applies to both individuals who are already tenants when the capital improvement begins and new tenants who, upon entering the community, receive notice of charges for ongoing capital improvements.

The owner/operator's right to pass through such costs, however, has certain limitations. He or she may not pass through such costs where the common area or utility is in violation of the applicable law. That is, if your utility system fails to meet an existing legal code or standard, the owner/operator must himself bear the costs of bringing the system up to code. However, when the owner/operator has to upgrade or make improvements because the legal standard has changed, he or she may pass on such costs to the tenants, in the manner described in Section II.F.1 of this guide. 940 C.M.R. 10.03(2)(m).

## G. Retirement Communities

Many of the manufactured housing communities developed in recent years in the Commonwealth are retirement communities, with minimum age limitations on the residents.

Qualifying retirement communities are exempted from the general prohibitions against housing discrimination on the basis of age or family status. In order to qualify for this exemption, a retirement community must meet the both the federal and state standards for such communities. 940 C.M.R. 10.01.

### 1. Massachusetts requirements

In order to be a qualifying retirement community in Massachusetts, a community must have been “constructed expressly for use as housing for persons 55-or-over or 62-or-over.” Thus, to qualify for the exemption, manufactured housing communities must have age restrictions of either 55-and-over, or 62-and-over. In addition, communities must satisfy the “constructed expressly for use” requirement. This requirement means that a general access community is not allowed freely to convert to a retirement community. Such conversion is permissible only if the owner/operator can demonstrate that he or she has engaged in construction expressly for the purpose of making the community a 55-and-over, or a 62-and-over retirement community.<sup>47</sup> Finally, the Massachusetts law expressly requires that retirement communities comply with the Federal Fair Housing Act. M.G.L. c. 151B, §§ 4(6) & (7).

### 2. Federal requirements

The Federal Fair Housing Act, 42 U.S.C. § 3601-3619, exempts “housing for older persons” from the general federal law against housing discrimination on the basis of familial status (i.e., discrimination against families with children). The United States Department of Housing and Urban Development (“HUD”) enforces, and has issued regulations interpreting the federal provisions on housing for older persons. See 24 C.F.R. 100.300 et seq. In order to qualify for the exemption, housing must be intended and operated for use as either a 55-and-over, or a 62-and-over community.

**a. 55-and-over communities.** In order to qualify as a 55-and-over community (24 C.F.R. 100.304), three requirements must be satisfied:

- At least 80% of the occupied units must be occupied by at least one person 55 years of age or older per unit;
- The community owner/operator must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 or older; and
- The community must comply with HUD’s rules for verification of occupancy through reliable surveys and affidavits.

**b. 62-and-over communities.** All units occupied after September 13, 1988, must be occupied solely by persons 62 years of age or older.<sup>48</sup> In this type of community, under age household members cannot be permitted (although it could then qualify as a “55-and-over” community), unless they are employees performing substantial duties directly related to the management or maintenance of the community. 24 C.F.R. 100.303.

**c. Questions about the federal requirements.** Most questions usually concern the rules for establishing a 55-and-older community.

- **What does the 80/20% rule mean?** This rule for 55-and-over communities means that at least 80% of the occupied units must be occupied by at least one

person 55-or-older. Thus, spouses and other household members under age 55 can be permitted to live in the community without destroying its exempt status. Moreover, the remaining 20% of the units may be occupied by persons under 55 and still qualify for the exemption under federal law. Such units are often reserved for under-aged family members who inherit a home after a 55-or-older resident dies. Moreover, at least as far as federal law is concerned, a community may be more restrictive than the 80/20% rule, if it so desires: i.e., a community may require that 100% of the units be occupied by at least one person 55-or-older, or that 80% of the units be occupied exclusively by persons age 55-and-over. You should be sure to review municipal requirements and the community rules to determine how the 80/20% rule applies in your community.

- **What are examples of policies and procedures that demonstrate an intent to establish a 55-and-over manufactured housing community?** Manufactured housing communities should include the 55-and-over age restriction in their community rules, lease, occupancy agreements, and written disclosures to prospective tenants. They should also include the age restriction in their advertisements, other promotional literature, and sales presentations. The most important procedure demonstrating intent, of course, is the community's actual practices in enforcing its age restrictions.

- **How can I find out more about the Federal Fair Housing Act and HUD's rules for verification of occupancy?** You should contact HUD at Department of Housing and Urban Development, Fair Housing Enforcement Office, 451 7th Street, S.W., Room 5206, Washington, D.C., (800) 669-9777.

## **H. Selling Your Manufactured Home**

Community owner/operators are often in the business of selling new and used homes on lots within a community, and sometimes may be in direct competition with homeowners attempting to sell their homes. In order to correct any inequality in bargaining position, the Act and the Regulations establish certain rights and protections for homeowners trying to sell their homes.

### **1. Right to sell home without interference**

Your community owner/operator may not interfere with your right to sell your home in the community. The community owner/operator may, however, require a selling homeowner to provide him or her notice of the sale at least 30 days before the sale is executed. 940 C.M.R. 10.07 (1)(e). In addition, he or she may require the prospective buyer of your home to complete an application for tenancy in the community. The tenancy application process is discussed in Section II. C.1 of this guide.

In any case, as long as your prospective buyer meets the current, enforceable rules of the community and provides reasonable evidence of his or her financial ability to pay the rent, the community owner/operator must allow the buyer and household to reside in the community. M.G.L. c. 140, § 32M; 940 C.M.R. 10.07(1)(a) & (2). As a general rule, the community owner/operator may not reject new tenants for such reasons as the condition of the home or the lot (see Section II.C.1b(1) of this guide), or the fact that the seller owes back rent (see Section II.C.1.b(2) of this guide), or the fact that the prospective buyer already owns other homes or leases other sites in the community. 940 C.M.R. 10.07(2).



**a. Right to sell home on lot.** Your community owner/operator also may not interfere with your right to sell your home on its lot in the community. A community owner/operator thus may not require that your home be removed from the community after it is sold. 940 C.M.R. 10.07(1)(a). If your community owner/operator wishes to upgrade your lot by placing a new home on it and selling it, he or she may bid on your home when it becomes available for sale.

**b. Right to choose broker.** Your community owner/operator may not require you to use a particular broker (including the owner/operator or his or her agents) for any sale of your home. You may sell your home directly, or use any broker of your choosing. 940 C.M.R. 10.07(3)(a) & (b).

**(1) Community owner/operator as broker.** You may, of course, voluntarily contract to have your community owner/operator or someone he or she designates act as your broker in the sale of your home. If you do, there is a cap on the broker's fee or commission that the owner/operator can charge: he or she may not charge more than 10% of the sale price of your home. In addition, the owner/operator may not charge this fee unless other conditions are met: there must be a separate written agreement, signed by you, and naming your community owner/operator or his or her agent to act as your broker; the community owner/operator must actually provide brokerage services; and the broker's fee must be reasonable in relation to the services provided. 940 C.M.R. 10.07(4).

**c. Steering prohibited.** Your community owner/operator may not require that any person who wishes to buy a home in the community first stop at the community management or sales office to inquire about the availability of homes. 940 C.M.R. 10.06(2). He or she also may not make any false, deceptive, or misleading statements to potential buyers in order to discourage them from purchasing your home.<sup>49</sup> 940 C.M.R. 10.07(1)(c).

**d. Community owner/operator may not require a home inspection.** Your community owner/operator is not entitled to inspect, or cause someone else to inspect, your home prior to your sale of the home. As with the sale of a single-family home, home inspections may only take place at the discretion of the buyer. Your community owner/operator, however, is entitled to inspect your lot prior to leasing it to the new tenant. See 940 C.M.R. 10.03(8).

**e. Right to use "For Sale" signs.** You have the right to place any commercially reasonable "For Sale" signs on your home and lot. In general, "For Sale" signs that are commercially reasonable for the sale of single family homes are also commercially reasonable for manufactured homes. Your community owner/operator may not require you to use a specific sign, such as one displaying the community logo, or one directing an interested party to the community sales or management office. 940 C.M.R. 10.07(5).

**f. Exit fees impermissible.** Your community owner/operator may not charge you an exit fee when you leave the community. 940 C.M.R. 10.03(2)(a).

## 2. Right of first refusal by community owner/operator.

A “right of first refusal” may come into play once you decide to sell your manufactured home and receive an offer from a third party. If the community owner/operator has a valid right of first refusal, he or she has the right to purchase the home on the terms of the third-party offer.

Because this right of first refusal can often be valuable, many community owner/operators seek to obtain a right of first refusal to purchase residents’ homes. It is not permissible, however, for community owner/operators to grant themselves the right of first refusal in the community rules. Rather, in order to be valid, the right of first refusal must be freely granted by the resident to the community owner/operator, in a written agreement in which the resident receives something of value in return for the right of first refusal. Moreover, assuming that you have granted the community owner/operator a right of first refusal, the Regulations impose additional requirements. 940 C.M.R. 10.07(7).

### a. **Bona fide offer to purchase must be matched by community owner/operator.**

Assume you receive a bona fide offer to buy your home, and your community owner/operator has a valid right of first refusal that he or she wants to exercise. He or she can do so only if the offer matches both the amount and the terms of the original offer. 940 C.M.R. 10.07(7)(a) & (c).

**b. Fifteen-day limit on right of first refusal.** To exercise his or her right of first refusal, your community owner/operator must notify you, within 15 days of your receiving a bona fide offer, whether he or she will match it. 940 C.M.R. 10.07(7)(b).

**c. Substantially similar offers within one year.** Assume that your community owner/operator fails to exercise his or her right of first refusal, and the original offer also falls through. During the next year, if you receive any other offer that is substantially similar to the original offer, you are not required to give the community owner/operator another opportunity to exercise the right of first refusal. If the price of the later offer is much lower, however, you are required to give your community owner/operator the opportunity to exercise the right of first refusal. 940 C.M.R. 10.07(7)(d).

**d. Transfers to family members.** Your community owner/operator has no right of first refusal if you intend to sell or transfer your home to members of your family, including step-relatives and domestic partners. 940 C.M.R. 10.07(7)(e).

## 3. Tenant improvements made to lot

If your community owner/operator required you, or you chose, to make any repairs or improvements to your lot — such as adding plants, vines, edgings, shrubs, gravel, stone, or the like — those items become your property. When you sell your home, you may take such improvements with you, sell them to your community owner/operator, or sell them to the buyer of your home. If you decide to remove the improvements, you may be required to repair any damage that their removal causes to the lot. 940 C.M.R. 10.04(5)(c).

## I. Manufactured Housing Cooperatives

In recent years, many communities have been purchased by residents’ associations, which own the land, collect the rent, and oversee community management. The law defines these communities, or “cooperatives,” as communities where at least 51% of the individuals owning

homes cooperatively own the land underlying the community. 940 C.M.R. 10.01. Participating individuals – often called “members” or “shareholders” – own shares in the cooperative and pay their lot rent to the cooperative. The mechanism for residents to purchase their community is described in Section II. J of this guide.

### **1. The Attorney General's Regulations do not apply to cooperative members**

The Regulations do not apply to disputes between the cooperative and its shareholders. 940 C.M.R. 10.12. Cooperatives are subject to the Act itself and any other applicable laws, such as laws governing eviction and unfair or deceptive practices (M.G.L. c. 93A). In addition, the Regulations may still serve as a guide to cooperatives in governing themselves.

### **2. Non-shareholding residents of a cooperative are protected by the Attorney General's Regulations**

Cooperatives often lease lots to non-shareholders, such as original residents who decided not to buy into the cooperative or new residents joining after the purchase of the community. Any resident who is not a shareholder is protected by the Act and other applicable laws, and also, by the Attorney General's Regulations.

## **J. Purchase of a Manufactured Housing Community by Residents**

If your community owner/operator decides to sell or lease your community, residents or their residents or homeowners' associations have a statutory “right of first refusal” to purchase or lease the community from the owner/operator. M.G.L. c. 140, § 32R. As described below, the Act sets out a process for triggering the residents' right of first refusal. It includes the community owner/operator's notice of his or her mere intent to sell or lease the community, a second round of notices about the details of specific offers received, and a mechanism for residents to purchase or lease the community on “substantially equivalent terms and conditions” as the offer that the community owner/operator otherwise intends to accept.

### **1. Written notice of owner/operator's intent to sell or lease the community**

If your community owner/operator intends to sell or lease all or part of your community, he or she must notify all residents in the community. He or she must send the notice by certified mail within 14 days after he or she has advertised, listed, or otherwise publicized that the community is for sale.<sup>50</sup> No sale or lease can occur until at least 45 days after you and other residents have been notified. In the notice, he or she must notify residents of their right to purchase the community under the Act. M.G.L. c. 140, § 32R(a); 940 C.M.R. 10.09(1)(a).

### **2. Written notice of the details of any offer which the owner/operator intends to accept that would result in a change of use or discontinuance of the community**

If your community owner/operator intends to accept an offer to sell or lease the community, and the change in ownership would result in a discontinuance or change of use of the property, then he or she must notify all residents in the community of this fact. The notice must be sent by certified mail, and include the terms, conditions, and total price<sup>51</sup> of the offer. M.G.L. c. 140, § 32R(b); 940 C.M.R. 10.09(1)(b). In addition, if the community owner/operator intends to provide financing for a proposed sale or lease that would result in a change of use or discontinuance, he or she must also provide such financing to a group of tenants attempting to purchase the community in the manner described below. M.G.L. c. 140, § 32R(c).

### **3. Written notice of the details of any offer which the owner/operator intends to accept that would not result in a change of use or discontinuance of the community**

The notice requirements are different if the offer to sell or lease comes from a buyer who will continue the ongoing operation of the community. The community owner/operator is required to give notice to all residents only if 51% of the tenants have previously requested such notice in writing. One simple way to request such notice is to fill out a form that you should have already received, along with other documents setting out the terms and conditions of your occupancy in the community. See M.G.L. c. 140, § 32P (Appendix D), which sets out the language of the form. Although the form is convenient, it is not necessary to use it. To request notice, all you need do is state, in writing, that you would like to receive information about any proposed sale or lease of the community. Your request does not obligate you to participate in any such purchase or lease. To satisfy the 51% requirement, the written request can be either a single request from a residents/homeowners' association<sup>52</sup> representing at least 51% of the tenants, or individual requests from at least 51% of the tenants. You may make this request at any time — from the time you first enter the community up until you have received the initial notice of the mere intent to sell or lease described above. As long as the 51% requirement is satisfied, the community owner/operator must notify you, by certified mail, of the details of the offer received, and include the terms, conditions, and total price of the offer. M.G.L. c. 140, § 32R(b).

### **4. Right of first refusal by tenants<sup>53</sup>**

An association representing at least 51% of the tenants or homeowners can exercise the statutory right of first refusal as long as it meets certain conditions, set out below. As long as these conditions are met, the community owner/operator may not unreasonably refuse to enter into, or unreasonably delay such purchase or lease of the community. 940 C.M.R. 10.09(1)(c).

**a. Reasonable evidence of approval to purchase.** The residents' or homeowners' association must submit reasonable evidence that residents of at least 51% of the occupied homes in the community have approved the purchase of the community by the association. An example of such reasonable evidence would be a document signed by all interested residents. 940 C.M.R. 10.09(3)(a).

**b. Purchase and sale agreement or lease agreement.** After receiving written notice of a particular offer, the residents or homeowners' association has 45 days to submit a purchase and sale agreement or lease agreement to the community owner/operator. To be accepted, the proposed agreement must be on "substantially equivalent" terms and conditions as those in the original third-party offer. M.G.L. c. 140, § 32R(c).

**c. Binding commitment for necessary financing.** Once the proposed purchase and sale has been executed, the residents or homeowners' association has 90 days to get a binding commitment<sup>54</sup> for financing or guarantees. M.G.L. c. 140, § 32R(c).

**d. Timely closing.** The closing must occur within 180 days after the purchase and sale or lease agreement was originally signed. M.G.L. c. 140, § 32R(c).

### **5. Assignment of tenants' right of first refusal**

Sometimes a residents' or homeowners' association may not have the independent ability to purchase the community but wants it to continue as a manufactured housing community. In that event, the association may assign its right to purchase to the city or town in which it is

located, or an appropriate housing authority or agency of the commonwealth. M.G.L. c. 140, § 32R(c). Such an assignment is appropriate only if the governmental entity is willing to purchase the community and continue using the land as a manufactured housing community. Once such a purchase is made, the governmental entity would then become the owner/operator of the community.

#### **6. Termination of homeowners' right of first refusal**

The tenants' right to purchase or lease the community terminates if the residents' or homeowners' association fails to meet any of the deadlines described above. Each of the time periods, however, may be extended by agreement with the community owner/operator.

#### **7. Subsequent offers to purchase or lease**

**a. Substantially different offers.** For each substantially different offer to purchase or lease the community which the owner/operator intends to accept, the residents' or homeowners' association shall have a separate right of first refusal. M.G.L. c 140, § 32R (d).<sup>55</sup>

**b. Substantially equivalent offer by same third party offeror.** If the community owner/operator receives a substantially equivalent offer from the same third party and the owner/operator intends to accept that offer, the tenants have a new right of first refusal, as long as at least six months have passed since the original offer. M.G.L. c. 140, § 32R(d).

**c. Substantially equivalent offer by different third party.** If the community owner/operator receives a substantially equivalent offer from a different third-party offeror, and the owner/operator intends to accept that offer, the tenants will have a new right of first refusal, as long as at least three months have passed since the original offer. M.G.L. c. 140, § 32R(d).

#### **8. Community owner/operator's affidavit of compliance**

If a residents' or homeowners' association is unsuccessful in attempting to purchase or lease the community, the community owner/operator must provide evidence that he or she satisfied the requirements of M.G.L. c.140, § 32R. In particular, he or she must file an affidavit of compliance with state and local officials, including the Attorney General, the Director of DHCD, the local board of health, and the official records of the county where the property is located. This filing must occur within seven days of the sale or lease of the community. M.G.L. c. 140, § 32R(e).

#### **9. Security deposit on lease of community**

Where a residents' or homeowners' association is offering to lease the community, the community owner/operator may require a security deposit. This security deposit may not be more than one year's rent (or less, if less is required from the third-party offeror) and must be held in escrow during the term of the lease. M.G.L. c. 140, § 32R(c).

#### **10. Lease of community to third party**

Where the community is being leased to a third party for a period of five years or less, the



lease must specifically state that this third party shall not discontinue or change the use of the community during the term of the lease. M.G.L. c. 140, § 32R(e).

### **11. Sale to third-party who subsequently issues notice of change of use or discontinuance**

A community may be sold to an individual or company that originally intended to continue the manufactured housing community, but later decides to issue a notice of discontinuance. If such a notice is issued within one year after the community was purchased, tenants are entitled to at least four years' notice of the proposed change of use or discontinuance. M.G.L. c. 140, § 32R(f).

## **K. Eviction from a Manufactured Housing Community**

Eviction from a manufactured housing community is a very serious matter. It means that you and your family will have to not only move, but also either sell your home or move it elsewhere. The Legislature thus has provided special statutory protections for residents facing eviction from their community. See M.G.L. c. 140, § 32J.

### **1. Termination of tenancy vs. eviction**

Termination of a tenancy is not the same as eviction. "Termination of tenancy" is the technical name for the procedure for changing or ending your tenancy at the community. (For a discussion of tenancies, see Section II.E.1.b-d of this guide.) As discussed above, sometimes a community owner/operator may "terminate" your tenancy although he or she does not intend to evict you, but merely to change the terms of your tenancy. See Section II.E.e.1 of this guide. As long as the resident agrees to pay the new rent, he or she will continue to live in the community without interruption.

On the other hand, the community owner/operator may send a Notice to Quit because he or she wants to "evict" a resident, or require the resident to leave the community permanently. Before the owner/operator can bring a court proceeding for eviction, however, he or she must again use the termination of tenancy process, which is described fully below. See Section II.K.3 of this guide.

Should you receive a Notice to Quit, do not be alarmed. First, determine whether the Notice discusses merely a rent increase or the threat of eviction. Even if it is the latter — a statement of the intent to evict you — you still may have options. You do not have to leave the community immediately; the community owner/operator must first complete the strict procedure for bringing and proving an eviction action against you in court before he or she can make you leave. In any case, upon receiving a Notice to Quit, contact an attorney, a local Legal Service Office, or your residents' or homeowners' association.

### **2. Grounds for terminating your tenancy for purposes of eviction**

A community owner/operator can end a tenancy, for the purpose of evicting you, only for the following reasons:

- a. Non-payment of rent.** If you fail to pay your rent, your tenancy may be terminated. In order to avoid disputes about how much rent is owed, keep good records of your rent payments and any reasons for withholding any portion of your rent (such as for

necessary repairs or code violations). See M.G.L. c. 239, §8A (rent withholding statute) and 940 C.M.R. 3.17(g) & (h) (Attorney General's c. 93A regulations governing landlord-tenant disputes.)

**b. A substantial violation of an enforceable community rule.** You may also have your tenancy terminated if you have committed a "substantial violation" of an enforceable community rule. The Regulations define "substantial violation" to mean a violation that endangers the health or safety of other residents, their guests, or the community owner/operator; that unreasonably interferes with other residents' use and quiet enjoyment of their homes, homesites, or the common areas or facilities; or that damages or poses a substantial risk of damage to the community owner/operator's property or equipment. 940 C.M.R. 10.08(2)(b).

**c. A violation of a law or ordinance protecting health or safety.** Your tenancy may also be terminated for violation of a health or safety law or ordinance, but only if the correct process is followed. See 940 C.M.R. 10.08(3)(a). First, your community owner/operator does not have the authority to determine whether a particular health or safety law has been violated. That decision must be made by the government agency in charge of enforcing the law. Once the agency has notified you of the violation, you then have a "reasonable period" to comply. If you fail to comply after a reasonable period, then, and only then, may your community owner/operator terminate your tenancy. Id. Finally, you may be evicted if someone in your household has been convicted of violating a criminal statute that protects the health or safety of other residents; however, you may not be evicted on this basis if that person no longer resides with you and does not move back in again. 940 C.M.R. 10.08(3)(b).

**d. A good faith discontinuance of part or all of your community.** If the community owner/operator has made a good faith decision to discontinue your manufactured housing community, he or she may terminate your tenancy. M.G.L. c.140, § 32J. However, he or she can do so only if he or she complies with the special provisions contained in the Act and Regulations. First, all residents are entitled to a minimum two-year notice period. Thus, at the earliest, a community can be closed, and your tenancy terminated, two years after the notice informing you of the discontinuance. M.G.L. c. 140, § 32L(8). Moreover, if the time remaining under your lease is more than two years, the community owner/operator must honor that lease. In addition, if you purchased your home from the community owner/operator, you have special protections: for five years from the date of sale, your tenancy may not be terminated on the grounds that the community is being discontinued. M.G.L. c. 140, § 32J. See Section II.L.2.a of this guide.

### 3. The procedure for terminating your tenancy

If your community owner/operator wants to evict you from the park, he or she must follow a strict procedure, which is set forth below.

**a. 30-day Notice to Quit required.** At least 30 days before beginning any court proceedings, your community owner/operator must first terminate your tenancy by sending you a written Notice to Quit.<sup>58</sup> The notice must be delivered by certified or registered mail and state the reason he or she is terminating your tenancy. If the community owner/operator claims that you violated a health or safety law or ordinance, or committed a substantial violation of a community rule, the notice must state precisely

what law or rule you allegedly violated, when, where and how you violated it, and the names of any witnesses. 940 C.M.R. 10.08(1)(b). It must also state that in order to avoid eviction, you have 15 days (from the date you receive the notice) to pay your overdue rent or cure the alleged violations. M.G.L. c. 140, § 32J.

**b. 20-day cure period.** The Notice to Quit will state that you have 15 days to pay your rent or cure any other violation; however, your community owner/operator may actually initiate court proceedings only if you have still failed to cure the alleged violation 20 days after you received the notice. M.G.L. c. 140, § 32J.

**c. Action brought on basis other than non-payment of rent.** If your community owner/operator is evicting you for something other than non-payment of rent, he or she must begin action against you within 30 days of your last alleged violation. He or she cannot "sit on his or her rights," but must act promptly. M.G.L. c. 140, § 32J.

**d. Exception for repeated substantial violation of rule.** There is an exception to the 30-day Notice rule if you have already received one 30-day Notice to Quit for an alleged substantial violation of a rule and had an opportunity to cure the rule, and then violate that same rule again within the next six months. Under those circumstances, your community owner/operator may bring an eviction action against you without giving you another Notice to Quit and opportunity to cure. M.G.L. c. 140, § 32J.

**e. "Certificate of eviction" required by local rent control board.** Most manufactured housing rent control laws require that before your community owner/operator can evict you, he or she must obtain a "certificate of eviction" from the local rent control board. A certificate of eviction can be obtained only on the grounds listed in the Act, M.G.L. c. 140, § 32J; 940 C.M.R. 10.08(1)(c). In general, the local board should give you written notice of any application and an opportunity to oppose the issuance of a certificate of eviction. If you live in a rent-controlled community, and there is an issue about board procedures, you should call your local board or other local officials for a copy of the local rent control laws. Even where the rent board does issue a certificate of eviction, you still have the right to appeal the board's decision in Housing or District Court, within 30 days of the issuance of the certificate of eviction. See *Nelson v. Boston Rent Equity Board*, 403 Mass. 425, 530 N.E. 2d 351 (1988). Your landlord may begin an eviction case in court, however, before your appeal is decided.

#### 4. Summary process eviction

Once your tenancy has been properly terminated and the notice and cure periods have expired, a community owner/operator can file an eviction case against you in court under a procedure called "summary process." This is the procedure used for the eviction of all residential tenants in the Commonwealth. M.G.L. c. 239. The community owner/operator has the burden of proving that the tenant committed the specific violation stated in the Notice to Quit. Like other residential tenants, you may have defenses, counterclaims, or legal remedies under summary process.

**a. Stopping an eviction by paying rent owed.** If you are being evicted for non-payment of rent, you may have the opportunity to revive your tenancy by paying all the past rent owed, even after the summary process case has been filed.



**(1) Tenants with leases.** If you want to revive your tenancy after you have received a summons and complaint, you must pay all the rent owed, plus interest, and your community owner/operator's court filing costs, on or before the date your answer to the complaint is due in court.<sup>57</sup> M.G.L. c. 186, § 11. Make sure that you obtain a written, dated receipt for the amount that you paid and a written agreement, signed by both sides, stating that the case should be dismissed. On the date that your case is scheduled for trial, you should still go to court. Bring your receipt and the agreement, and make sure that your community owner/operator gives the agreement to the judge, to ensure that the case is dismissed.

**(2) Late subsidy or welfare checks.** If you have not paid your rent because you have not received an expected housing subsidy or welfare check, you should immediately ask the court to postpone your hearing date for at least seven days, so that the check can arrive. If you pay the community owner/operator the rent plus interest during this continuance period, the court must treat the tenancy as not having been terminated and must dismiss the case. M.G.L. c. 186, §§ 11, 12.

**(3) Rent withholding.** If you have been withholding rent because of serious code violations on your lot or in common areas, you may be able to revive your tenancy after the trial. As part of the eviction trial, the court will likely evaluate the conditions and determine how much of the rent you actually owe. In order to revive your tenancy, you must pay the amount determined by the judge, within seven days of your being notified of the court's ruling. M.G.L. c. 239, § 8A.

**b. Transfer to Housing Court.** You may live in a city or town that falls within the jurisdiction of a state Housing Court.<sup>58</sup> If so, you have the right to have your case heard there, even if your community owner/operator has filed the case in District or Superior Court. The Housing Court specializes in housing matters, especially eviction cases, and the judges there are often familiar with manufactured housing issues. If you would like to transfer your case to Housing Court, call your local Housing Court to obtain a form called "Notice of Transfer." You should file this form in the court in which the case was originally filed, and send a copy to the Housing Court and your community owner/operator. Transfer will occur automatically. M.G.L. c. 185C, § 20. You can deliver this form up until the day before the original trial date. Unif. Summ. Proc. R. 4.

**c. Filing your Answer.** Your summons and complaint will tell you when you must file your "answer." An answer is a written document you use to tell the court your side of the story and should include any defenses or counterclaims you may have. You must file the original of your answer in court and give a copy to your community owner/operator by the answer date. If you do not file an answer in court by the answer date, a judge may "default" you and authorize your community owner/operator to evict you.<sup>59</sup>

**d. Defenses.** As a manufactured housing community tenant, you may have defenses to the eviction action. Here is a list of some (but not all) common defenses:

**(1) Cure.** If you have paid the overdue rent or corrected the alleged violation within 20 days of the date of your Notice to Quit, you cannot be evicted.

**(2) Acceptance of rent without reservation.** Community owner/operators often accept rent even after sending a resident a Notice to Quit. If he or she does so, and fails, in writing, to reserve his or her right to evict you, then he or she may have created a new tenancy at will. Under these circumstances, he or she would lose his or her right to evict you for this particular failure to pay rent.

**(3) Improper notice of termination.** The Notice to Quit may be defective if it fails to specify the details of how you violated a community rule or law, 940 C.M.R. 10.08(1)(b); fails to notify you of your right to cure; or was not delivered by certified or registered mail. If your notice is defective, the court should dismiss your case.

**(4) Rule violations not included in the termination notice.** Your community owner/operator cannot ask the judge to evict you based on rule violations that were not included in the original termination notice.

**(5) Rule violation not “substantial.”** To serve as a basis for eviction, there must be a “substantial” violation of an enforceable community rule. See Section II.K.2.b of this guide.

**(6) Failure to follow community discontinuance requirements.** If you are being evicted only because your community is being discontinued, you can defend against eviction if your community owner/operator did not follow the proper procedures for discontinuance described in the Act, M.G.L. c. 140, §§ 32L(7A)-(9). Such defenses may include: the community owner/operator’s failure to obtain a discontinuance permit, where required by a local governmental body; failure to properly notify tenants of the community closing; failure to honor the term of your lease, over and above the two-year notice period; and, with regard to those purchasing homes from the community owner/operator, failure to honor the residents’ statutory right to live in the home for five years from the date of purchase. M.G.L. c. 140, § 32J(4).

**(7) No “good faith” closing.** If the community owner/operator wants to evict residents on the ground of community discontinuance, he or she must prove that the discontinuance is in “good faith,” that is, he or she has no impermissible ulterior motive. Evidence of such good faith would include a pre-existing plan or a business reason for closing the community. Moreover, the community owner/operator may have to rebut a presumption of no good faith, which arises under certain circumstances. See 940 C.M.R. 10.10(1) and Section II.L.5 of this guide.

**(8) Violation of local rent control ordinance.** In rent-controlled communities requiring a certificate of eviction, your community owner/operator must have obtained the certificate before seeking eviction, and must file the certificate in court together with the summons and complaint. If he or she has not done so, the action against you should be dismissed. See 940 C.M.R. 10.08(1)(c).

**(9) Death of tenant.** Where the tenant has died, the tenancy will continue in the tenant’s estate for one year from the date of death, or one year from the appointment of an executor or administrator, whichever comes first. M.G.L. c. 140, § 32J. Thus, if a retirement community tenant dies, remaining household members who are underage will have a year to sell the home and find alternative housing, and generally cannot be evicted during that time.

**(10) Unsanitary or unsafe conditions.** You may have a defense to an eviction if community conditions violate the state sanitary code, and your community owner/operator knows about such conditions and fails to correct them. This defense is especially appropriate if you are being evicted for non-payment of rent after withholding rent because of the poor conditions. M.G.L. c. 239, § 8A.

**(11) Retaliation.** You may also have a defense if your community owner/operator tries to evict you in retaliation for engaging in certain activities protected by law, such as: reporting violations of law to the appropriate governmental authorities; being a member of a residents' or homeowners' association or seeking to establish or amend rent control laws; or asserting any rights under the Act, the Regulations, or any other applicable landlord-tenant law. If the community owner/operator sends you a Notice to Quit or brings an eviction action within six months after you did any of these protected activities, then the court must presume that your community owner/operator is retaliating. Your community owner/operator then would not be able to evict you unless he or she proves that the eviction is based on a legitimate reason and would have been brought regardless of your protected activities. M.G.L. c. 140, § 32N; 940 C.M.R. 10.08(4).

**(12) Discrimination.** If you are physically or mentally handicapped, your community owner/operator is required to make "reasonable accommodations" for you. 42 U.S.C. § 3604(f)(3)(b); M.G.L. c. 151B, § 4(7A). This requirement may help you defend against an eviction action if a reasonable accommodation would assist you in curing the violation upon which the eviction action is based. Another type of illegal discrimination occurs if your community owner/operator refuses to accept a welfare voucher or rent subsidy from you. M.G.L. c. 151B, § 4(10).

**e. Obtaining "discovery."** To help you prepare and prove your case, you have the right to obtain "discovery" — that is, information and documents from your community owner/operator.<sup>60</sup> If you file your discovery papers in court by the answer date, the court will postpone your hearing for two weeks. This will give your community owner/operator time to answer your questions and send you documents. If he or she does not respond within 10 days of receiving your discovery, or gives incomplete answers, you have five days to file a "motion to compel" asking the court to order the community owner/operator to give you the requested information. If your community owner/operator does not comply with the court's order, the court can impose sanctions, including dismissing or postponing the case. Unif. Summ. Proc. R. 7.

**f. Mediation.** In Housing Court, while you are waiting for your case to be called, you may be asked whether you are interested in meeting with one of the court's mediators. A mediator will try to help you and your community owner/operator settle your dispute without a trial. If you agree to mediation, do not make any promises you cannot keep. Everything said in mediation is confidential, and if mediation cannot resolve your dispute, you are still entitled to a trial.

**g. Trial of your case.** Your community owner/operator is required to present his or her evidence first. You have the right to cross-examine anyone who testifies, including your community owner/operator. You will then have the opportunity to tell your side of the

story to the judge, present witnesses, and provide documents. The judge will then issue a judgment — either immediately, in court, or by mail, after he or she has “taken the case under advisement.”

**h. Right to appeal judgment.** If you lose in court and still think you have valid legal claims or defenses, you have 10 days after the judgment to file an appeal. M.G.L. c. 239, § 5; Unif. Summ. Proc. R. 12. If your case was in the District Court, you have the right to a completely new trial before a judge or jury in the Superior or Housing court. M.G.L. c. 231, § 97; M.G.L. c. 239, § 5. If your case was originally held in the Housing or Superior Court, there is no second trial; your appeal is to the Appeals Court, which will review the original trial to see if any legal errors were made by the trial court. It is essential to have the assistance of a lawyer when appealing your case to the Appeals Court.

**i. Execution of a judgment against you.** If your community owner/operator wins the case, he or she may obtain an “execution” from the court within 10 days after judgment is entered against you. This execution must be used within three months of that date or it expires.<sup>61</sup> M.G.L. c. 235, § 23. To execute a judgment means to have a sheriff or constable deliver the execution to you and move you out, placing any of your remaining possessions in storage. M.G.L. c. 239, § 4. A constable must give you 48 hours written notice that you are going to be evicted, by either giving the notice to you directly or tacking it to your door. The notice must state the date and time he or she will move you out. You can only be moved out Monday through Friday between 9:00 a.m. and 5:00 p.m., and not on a legal holiday. M.G.L. c. 239, § 3. You may be able to get the constable to agree to give you more time to move out. Since it can be costly for your community owner/operator to pay to have your possessions removed and stored, you may be able to work out an agreement which gives you more time to move out voluntarily.

**j. Acceptance of rent after eviction.** If you were evicted for non-payment of rent and you pay all of the rent due before your community owner/operator executes the judgment, your community owner/operator will not be able to move you out, and must return the execution to the court. M.G.L. c. 239, § 3.

**k. Obtaining a stay of execution.** If you lose your eviction case and need more time to move, you can ask the judge to grant you a stay of execution, which prevents the community owner/operator from evicting you until the stay expires. You cannot obtain a stay if you are being evicted for non-payment of rent or for some other reason which was your fault. A judge has the power to stay your eviction for up to six months; however, if you or someone living with you is disabled or over the age of 60, a court can grant you a stay for up to 12 months. M.G.L. c. 239, § 9.

#### 4. Post-eviction rights

The law provides you with you certain rights and responsibilities in order to give you an opportunity to sell your home after you have been evicted from a manufactured housing community.

**a. 120-day period to sell your home in place.** For 120 days after your eviction, you have the right to try to sell your home in place, and your community owner/operator may not move your home, or interfere with utility hookups. 940 C.M.R. 10.08(5)(a). No

one, however, is permitted to occupy the home during this time period. In order to benefit from this provision, you must make good faith efforts to sell your home. M.G.L. c. 140, § 32J.

**b. Liability for rent and maintenance during 120-day period.** During the 120-day period, you will continue to be liable for the lot rent and for the maintenance of the lot. If you cannot afford to pay for these, your community owner/operator may place a lien on your home for the amount owed, plus any other amounts due to him that the court has set forth in your eviction order. M.G.L. c. 140, § 32J. To make the lien official and "perfect" either you or the community owner/operator should prepare a uniform commercial code ("UCC") statement and file it with the Secretary of State. As the owner of the home, you must sign the UCC statement. If you fail to do so within 10 days after receiving it from the owner/operator, you will not be entitled to the benefits of the 120-day period for as long as the statement goes unsigned. Alternatively, you may prepare and file your own UCC statement establishing the lien on your home. M.G.L. c. 140, § 32J.

**c. Freedom from interference in selling your home.** During the 120-day time period, you are entitled to place any commercially reasonable "For Sale" signs on your home or lot, and may show the home to prospective purchasers or their agents, such as home inspectors, without interference from your community owner/operator. 940 C.M.R. 10.08(5)(b).

**d. Purchase of home by community owner/operator.** Once you have been evicted, if your community owner/operator or any affiliate purchases your home at a price substantially below the fair market value of your home, such sale will create a rebuttable presumption that the transaction was unfair or deceptive, and thus a violation of the Massachusetts Consumer Protection Act, c. 93A. 940 C.M.R. 10.08(5)(c).

## **L. Discontinuance or Change of Use of a Manufactured Housing Community**

Unfortunately, as you do not own the land beneath your home, the day may come when the owner/operator of your community decides to discontinue the community and use the property for some other purpose, such as a hotel or a shopping mall. This can present a crisis for residents of a manufactured housing community, since their homes are not truly "mobile." Even if they were mobile, it is often impossible to find a nearby community with open spaces for displaced homes. The discontinuance of a community thus may expose residents to the hardship of losing their homes and all of their investment in them. Fortunately, the Legislature has established important protections for residents facing such risks. M.G.L. c. 140, §§ 32L(7A) - (9).

### **1. Discontinuance permit requirements**

Some cities and towns with manufactured housing rent control require a permit if community owner/operators want to discontinue or change the use of a manufactured housing community.<sup>62</sup> In these cities and towns, your community owner/operator cannot issue a notice that the community is discontinuing without first following the local permitting process. M.G.L. c. 140, § 32L(8).<sup>63</sup> Once the community owner/operator applies for a discontinuance permit and is going to appear before the local authorities, he or she must give residents at least 15 days written notice of his or her appearance, delivered by certified or registered mail. *Id.* The



procedures and standards for the permitting process are set forth in the local rent control laws. Questions about this process should be directed to your local rent control board, city council, or board of selectmen.

## 2. Notice of discontinuance or change of use requirements

In addition to obtaining any required discontinuance permit, the community owner/operator must give you a legally proper notice of his or her intention to discontinue or change the use of your community.

**a. Minimum two-year notice period for all residents.** Each resident is entitled to at least two years' written notice before the discontinuance or change of use will occur. This notice must be delivered by certified or registered mail. M.G.L. c.140, § 32L(8). If you have a lease period that extends beyond this two-year period, you cannot be required to move until that lease period has expired. If your community owner/operator sold you your home in the community, you are entitled to stay in the community until five years has elapsed from the date that you bought your home. M.G.L. c.140, § 32J.

**b. Specific statement of reasons.** In the written notice he or she has delivered to you, your community owner/operator must clearly disclose and describe the nature of the change of use or discontinuance he or she has planned, and the reasons for his or her decision. M.G.L. c.140, § 32L(8).

## 3. Requirements during the two-year notice period

Your community owner/operator must comply with certain legal requirements during the period after he or she has issued a notice of change of use or discontinuance.

**a. Annual survey.** For each year of the two-year notice period, your community owner/operator must survey all manufactured housing communities within a 100-mile radius to determine if any has or will have vacant lots available during the notice period. All the information that he or she receives about available sites in response to the survey must be prominently posted at the community. The final survey must be completed and posted at least 120 days before the end of the notice period. M.G.L. c. 140, § 32L(7A).

**b. Written notice to new residents.** Your community owner/operator must give written notice of any planned change of use or discontinuance to all new residents before they enter the community or agree to an occupancy agreement. M.G.L. c. 140, § 32L(9). If the validity of the notice is being challenged legally, he or she must also inform new residents of such challenges and any related court rulings concerning the validity of the notice. 940 C.M.R. 10.07(1)(c). If your community owner/operator sells a home in the community, he or she must inform the buyer if he or she intends to issue or actually does issue a notice of discontinuance. 940 C.M.R. 10.02(9).

**c. Rental agreement.** Each resident who receives a discontinuance notice must also be offered a "rental agreement" that begins on the day the notice is issued. This agreement cannot change your existing tenancy arrangement, except for the amount of rent under certain circumstances.<sup>64</sup> If you live in a rent-controlled community, rents are governed by the applicable rent control laws. If you do not live in a rent-controlled community, then the community owner/operator may increase your rent only if a year has passed

since your last rent increase. In addition, the statute determines how the rent increase must be calculated: it cannot be more than last year's increase in the Consumer Price Index for Urban Consumers ("CPI"), plus your portion of any documented increase in real estate taxes or other municipal fees or charges. In any case, the rent cannot be increased more than 10% over last year's rent. M.G.L. c. 140, § 32L(7A). Please note: These rules apply only in cases of a Notice of Discontinuance.

**d. No restrictions on subleasing permitted.** Once a discontinuance notice has been issued, residents may lease their homes and sublease their homesites to others, without restriction. 940 C.M.R. 10.03(7).

#### **4. Monetary compensation to homeowners**

If a community owner/operator decides to discontinue or change the use of the community, he or she must compensate each individual who owns a home in the community.<sup>65</sup> Tenants can choose one of two ways to be compensated:

**a. Payment of actual relocation costs.** If you decide to move your home to a new community, your community owner/operator must pay you the actual costs of relocation. In particular, he or she must pay for the costs of disconnecting your home, moving it within a 100-mile radius, and reconnecting it so that it is in substantially the same condition it was in before it was moved. He or she must also pay the reasonable costs of suitable lodging for your household until the move and reinstallation of your home is completed. M.G.L. c. 140, § 32L(7A). You are entitled to receive these payments by the date you leave the community. In addition, after the home is physically relocated to another site, the payments must be adjusted to reflect the total costs of the move. To receive such adjusted payments, you must send the community owner/operator reasonable evidence of the total costs of the move. Once you have done so, you are entitled to receive the adjusted payments within 14 days after the community owner/operator receives such evidence. 940 C.M.R. 10.10(3)(c).

**b. Purchase of your home at its appraised value.** If you cannot or do not want to move your home, your community owner/operator must buy your home from you at its appraised value.<sup>66</sup> You and your community owner/operator should agree on an independent appraiser; but if you cannot agree, the Department of Housing and Community Development will appoint one within 30 days, upon request. The cost of the appraisal must be shared equally between the tenant and the community owner/operator. The community owner/operator must pay you the appraised value no later than the date you leave the community. M.G.L. c. 140, § 32L(7A). At the same time, you must give the community owner/operator good title to the home, free and clear of all liens or mortgages. 940 C.M.R. 10.10(3)(b).

#### **5. A discontinuance or change of use must be undertaken in "good faith"**

The Act requires that when a community owner/operator issues a notice of discontinuance, he or she must do so in "good faith." M.G.L. c. 140 §§ 32J, 32L(8). In a court proceeding, the burden of proving good faith is on the community owner/operator. M.G.L. c. 140 § 32L(8). Under certain circumstances, the law creates a "rebuttable presumption" that a change of use or discontinuance is not in good faith, and your community owner/operator must prove otherwise. Such a rebuttable presumption is created where the discontinuance notice is issued:

- within six months after any resident or group of residents complains to a government agency about a violation of the Act or any applicable building or health code, M.G.L. c.140 § 32N; 940 C.M.R. 10.10(1)(a);
- within six months after residents try or actually obtain rent control in their community, 940 C.M.R. 10.10(1)(b);
- within six months after the local rent board denies the community owner/operator a rent increase, 940 C.M.R. 10.10(1)(c);
- if credible evidence is produced that the discontinuance notice contains false information about the community owner/operator's reasons for issuing it, 940 C.M.R. 10.10(1)(d);
- if your community owner/operator fails to get a legally required permit before issuing the notice, 940 C.M.R. 10.10(1)(e);
- if the notice you received either contains no information about a planned alternative use for the land, or if current zoning does not allow for the planned use, 940 C.M.R. 10.10(1)(f);
- if your community owner/operator fails to conduct and distribute the results of the required annual survey of available homesites within a 100-mile radius, 940 C.M.R. 10.10(1)(g).

### **III. RESOLVING DISPUTES AND ENFORCING YOUR LEGAL RIGHTS**

Whenever you have a dispute with your community owner/operator, you should first attempt to bring your concerns to his or her attention. Open communication between community residents and owner/operators can enhance the quality of everyone's life in the community. One way to communicate your concerns is through your residents' or homeowners' association. It can serve as not only a forum for discussing community concerns but also as a vehicle for communicating with your owner/operator. In fact, some residents' or homeowners' associations schedule regular meetings with their community owner/operator so that he or she can be kept informed of the residents' concerns.

In addition to your community residents' association, there is also a statewide association of manufactured housing residents known as the Mobilehome Federation of Massachusetts (the "MFM"). The MFM represents the concerns and issues of manufactured housing residents throughout the state and stays up to date on changes in the laws affecting residents. If you are unable to resolve issues with your owner/operator, need more information about the laws applicable to your community, or would simply like to learn more about the organization, you should contact the MFM. For contact information, see Appendix F.

Community owner/operators have similarly formed a statewide organization known as the Massachusetts Manufactured Housing Association (the "MMHA"), which addresses owner/operators' concerns about issues affecting manufactured housing communities. Owner/operators who would like to learn more about owning and operating a community or would simply like to learn more about the organization should contact the MMHA. For contact information see Appendix G.

If these approaches fail to assist you in resolving disputes with your community owner/operator, it may be necessary to get help in enforcing your rights under the law. An outline of

governmental and private resources is set forth below.

### **A. Governmental Enforcement**

If you or other residents in your community believe that your community owner/operator is violating certain laws that protect the public welfare, you may be able to obtain governmental enforcement of those laws by notifying the appropriate authorities.

#### **1. The United States Department of Housing and Urban Development.**

The United States Department of Housing and Urban Development ("HUD") oversees application of the standards for the construction of manufactured homes, the National Manufactured Home Construction and Safety Standards. In addition, HUD enforces the Federal Fair Housing Act, which prohibits discrimination on the basis of race, color, religion, sex, national origin, handicap, and family status. As discussed previously, HUD also enforces the rules for establishing 55-and-over, and 62-and-over retirement communities. See Section II.G.1-2 of this guide. The local HUD office may be reached at: United States Department of Housing and Urban Development, O'Neill Federal Building, 10 Causeway Street, Boston, MA 02222-1092; or by phone at (617) 994-8200; or on the Web at [www.hud.gov](http://www.hud.gov). For questions about 55-and-over, and 62-and-over retirement communities, contact Department of Housing and Urban Development, Fair Housing Enforcement Office, 451 7th Street, S.W., Room 5206, Washington, D.C. 20410; or by phone with the Fair Housing Complaint Line at (800) 669-9777.

#### **2. Local Board of Health and the Department of Public Health**

Your local board of health is responsible for issuing an annual license to your community owner/operator. The board must make sure that the owner/operator is complying with the requirements for his or her license, as set forth in M.G.L. c. 140, § 32B. In particular, every year, along with its license application, the community owner/operator must submit a copy of the enforceable rules of the community and a written certification that they have been submitted to the Attorney General for approval as required under the Act. *Id.*; 940 C.M.R. 10.11(1) & (2). The board also enforces the provisions of the state sanitary code (105 C.M.R. 400.000 et seq. and 410.000 et seq.)<sup>67</sup> and local health ordinances. For violations of applicable the Manufactured Housing Act, the board of health can issue a violation notice to your community owner/operator, levy daily fines of up to \$100 a day for failure to comply with applicable laws, suspend or revoke his or her license, and take him or her to court to compel him or her to comply with the law. M.G.L. c. 140, §§ 32B, 32C, 32E; 940 C.M.R. 10.11(3).

In general, if there is a health or safety problem in the community, first notify your owner/operator. If he or she then fails to respond and correct the condition within a reasonable period of time, you may call the board of health and ask them to make an inspection. Uncorrected problems with your water or sewer or other unsanitary conditions in particular should be reported to the board. If you experience difficulty in getting your local board of health to act, you may also call the state Department of Public Health, at (617) 624-6000, and request their assistance.

#### **3. Department of Environmental Protection**

Along with your local board of health, the state Department of Environmental Protection has the authority to inspect a manufactured housing community to determine that the sources of water supply and the sewage disposition system are sanitary. If you are experiencing water quality or sewage disposal problems, the Department of Environmental Protection can work

with your local board of health to ensure that these problems are repaired by your community owner/operator. See M.G.L. c. 140, § 32B.

#### **4. Local consumer programs ("LCPs")**

There are local consumer programs throughout the state that are funded by the AGO to respond to local consumer complaints. These offices are often able to resolve disputes through discussions with your community owner/operator or through mediation. For the LCP nearest you, see Appendix H.

#### **5. Attorney General's Consumer Protection Division**

The Attorney General's Consumer Protection Division enforces both the Manufactured Housing Act and the Consumer Protection Act, M.G.L. c. 93A. If you have a complaint that cannot be resolved by your local board of health, local consumer program, or other government agency, you can call the Attorney General's Consumer Hotline, (617) 727-8400. Consumer information specialists will respond to your inquiries, refer you to appropriate governmental or private agencies or services, and send you informational brochures. Mediators will attempt to resolve any disputes with your community owner/operator. Moreover, where a community owner/operator's violations of the law substantially affect the public interest, the division may use its enforcement powers to take your community owner/operator to court to compel him or her to comply with the law.

#### **6. Department of Housing and Community Development**

The Housing Division develops and coordinates the state's overall housing policies which promote housing availability and affordability both in the public and private market, manufactured housing is an example of such housing. Like the AGO, the Secretary of the DHCD has the authority to review all new and amended community rules (see Section II.C.5.f. of this guide), and is a non-voting member of the Manufactured Housing Commission. See Section III.A.7. of this guide. Questions should be addressed to Department of Housing and Community Development, 100 Cambridge Street, 3rd Floor, Boston, MA 02114. You may also contact DHCD by phone at (617) 573-1100, or on the Web at [www.mass.gov/dhcd](http://www.mass.gov/dhcd).

#### **7. Manufactured Housing Commission**

The 1993 amendments to the Manufactured Housing Act created a five-member volunteer board known as the Manufactured Housing Commission, for the purpose of identifying and addressing the concerns of community owners and residents, particularly with regard to zoning and local taxation issues.<sup>68</sup> The Commission may also receive complaints from owners and residents and make recommendations for their resolution. Although required to include only one community owner and one resident, the Commission generally has consisted of two owners, two residents, and a member of the Legislature. A representative of the Attorney General's Office and DCHD also sit as non-voting members of the Commission. The Commission travels throughout the state, meeting on the third Tuesday of most months, from 10:30 a.m. to 12:30 p.m. If you have a complaint that you would like the Commission to consider, you should contact the Department of Housing and Community Development.

#### **8. Massachusetts Commission Against Discrimination**

The Massachusetts Commission Against Discrimination is the civil rights enforcement agency



of the Commonwealth. The Commission has the authority to investigate complaints of illegal discrimination in housing on the basis of disability, race, color, religious creed, age (from 18), national origin, sex, sexual orientation, children, ancestry, marital status, military and veterans status, public assistance reciprocity, blindness or hearing impairment. Questions should be addressed to the Massachusetts Commission Against Discrimination, One Ashburton Place, 6th Floor, Boston, MA 02108; or by phone at (617) 727-3990, or on the Web at [www.mass.gov/mcad](http://www.mass.gov/mcad).

## **9. Local rent control board**

In rent control communities, disputes over rents should be directed to your local rent control board. In addition, unresolved problems with community repairs should be directed to your local rent control board. Most rent control boards have the authority to require your community owner/operator to make necessary repairs in order to obtain rent increases, or may lower rents if needed repairs are not made. Questions about evictions and community discontinuance should also be directed to your local rent control board.

## **B. Private Enforcement**

If there is no other way to resolve your problem, you may decide to sue your community owner/operator, or to take other "self-help" measures. Going to court may offer remedies not otherwise available: you may be able to obtain either an injunction ordering your community owner/operator to correct a problem or stop breaking the law, or money damages for harm you have suffered.

### **1. Consumer Protection Act, M.G.L. c. 93A**

As consumers of housing, residents are protected by the Massachusetts Consumer Protection Act. Under c. 93A, it is illegal for your community owner/operator to use unfair or deceptive acts against you. In addition, a violation of either the Manufactured Housing Act or the Attorney General's Regulations is also a violation of the Consumer Protection Act. M.G.L. c. 140, § 32L(7). You may be able to recover your actual monetary damages, or even double or triple that amount if you can show that your community owner/operator acted intentionally.

**a. Demand letter required.** In order to recover damages under the Consumer Protection Act, you must first send your community owner/operator a written demand letter. The demand letter should describe the community owner/operator's deceptive act, how it is injuring you, and what you want done. If your community owner/operator does not respond to your letter in writing within 30 days, or if he or she does respond, but you can not settle the case, you may file suit against him or her. If the community owner/operator's failure to give you a reasonable offer of settlement was willful or in bad faith, you may collect as much as double or triple damages, plus reasonable attorney's fees and costs. M.G.L. c. 93A, § 9. You must file suit against your community owner/operator within four years of his or her unfair or deceptive act. M.G.L. c. 260, § 5A.

### **2. State Sanitary Code**

Violations of the State Sanitary Code can create a basis for private legal actions. For example, bad conditions can constitute a breach of the "warranty of habitability," a violation of the Consumer Protection Act, a basis for a negligence lawsuit, or the foundation for a criminal

complaint.<sup>69</sup> Short of going to court to vindicate your rights, there are two intermediate options open to you – the “repair and deduct” and “rent withholding” laws.

**a. The “repair and deduct” law, M.G.L. c. 111, § 127L.** The repair and deduct law is designed for those situations which require immediate attention, where the resident cannot tolerate a defective condition on the premises for very long because it affects one’s ability to perform essential functions, e.g., washing, using the bathroom. Four conditions must be met before a resident can invoke the repair and deduct law:

- there are violations of the state sanitary code or any other applicable laws (e.g., the Attorney General’s Regulations) which create unhealthy or unsafe living conditions;
- these conditions are certified to exist by the local board of health, a court, or some other appropriate agency;
- the community owner/operator or his or her agent is notified in writing of the existence of the violations; and
- he or she has failed to begin all necessary repairs or provided for them to begin within five days after such notice and substantially complete all necessary repairs within 14 days after such notice.

M.G.L. c. 111, § 127L. If these requirements are met, a resident may deduct from his or her rent an amount necessary to pay for needed repairs, not to exceed four months’ rent. This amount is determined collectively if action is taken by a group of residents.

**b. The “rent withholding” law, M.G.L. c. 239, § 8A.** The rent withholding law is designed to give residents a self-help remedy that essentially allows them to pay only the fair value of what they are renting. For example, assume rent is \$100 per month, \$20 of which is earmarked for maintenance of the community grounds, and the grounds are littered with refuse and overrun by vermin. If the community owner/operator is unwilling or unable to fix the problem within a reasonable period of time, the residents may want to consider withholding that portion of their rent which reduces their monthly payment to an amount equal to the fair value of the premises, here presumably by \$20. Rent can be withheld if:

- the community owner/operator, his or her agents or employees knew of the defective condition before the resident began withholding;
- the resident did not cause the defective conditions; and
- the defective conditions can be remedied without the resident having to temporarily move out.

M.G.L. c. 239, § 8A. The law requires the three conditions set out above. The fourth is required by common sense – withhold only that portion of your rent that reduces your monthly payment to an amount equal to the fair value of the property.

Although you are perfectly within your rights if you decide to withhold your rent because of defective conditions, the community owner/operator still may attempt to evict you. However, as long as you meet the requirements described above, you cannot be evicted for withholding of rent. M.G.L. c.239, § 8A. The law provides that even if a resident withholds more than what the court deems equal to “fair value” he or she still cannot be evicted if this excess amount, plus interest and the owner/operator’s costs of suit, is paid to the court within one week of the resident being notified of the excess withholding by the court.

In any summary process suit begun because of a rent withholding action, a resident can raise as a defense the community owner/operator's violation of the state sanitary code, breach of rental agreement, breach of warranty, or any other law protecting the residents occupancy rights. Once this issue is raised, the court will determine what the "fair value" of the leased premises actually is, as opposed to the amount the resident was being charged for it. The court may then order the resident to pay the clerk the "fair value" of the premises and use those funds for repair of the defective conditions.

**c. Practical advice about rent withholding.**

- Notify the community owner/operator of the defective conditions in writing prior to commencing rent withholding. This gives you proof of notice and gives him an awareness of how serious the problem is, as well as a chance to correct it at an early stage.
- Fairly estimate how much the premises are worth and withhold only that portion of your rent that reduces your monthly payment to the estimated fair value.
- Notify the community owner/operator in writing of your intent to commence rent withholding and note the amount withheld with language such as "\$ 17.00 rent withheld pursuant to M.G.L. c. 239, § 8A" on the back of every rent check.
- Deposit the withheld monies in a separate interest-bearing bank account established solely for this purpose. When the court makes its determination of "fair value" you will have the money necessary to pay the court immediately accessible.
- If eviction proceedings are initiated against you, consult a lawyer.

**3. Manufactured Housing Act**

You can challenge violations of the Manufactured Housing Act through the Consumer Protection Act. To bring such an action, you should follow the instructions above for bringing a c. 93A action. See Section III. B.1. of this guide.

**IV. CONCLUSION**

The purpose of this guide is to provide consumers with the basic information necessary to understand the legal principles and issues faced every day in manufactured housing communities around the Commonwealth. The information set forth above thus does not have the status of law, does not constitute an official legal opinion of the Attorney General, and is not intended as a substitute for the personalized legal advice that is often necessary to address individual needs. For further information, please contact the governmental and private resources listed in Section III.B of this guide, or consult a legal aid or private attorney.

Armed with this basic knowledge of manufactured housing community law, both residents and owner/operators alike have the tools for understanding how to live and work together to build a better community.



**ENDNOTES**

- 1 For an explanation of legal citations used in the Guide, see Appendix A.
- 2 The Manufactured Housing Act defines a “manufactured home” as a structure, “built in conformance to the National Manufactured Home Construction and Safety standards which is transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.” M.G.L. c. 140, § 32Q.
- 3 *Greenfield Country Estates Tenants Ass’n, Inc. v. Deep*, 423 Mass. 81, 83 (1996).
- 4 E.g., *Commonwealth v. Gustafsson*, 370 Mass. 181, 184 (1976).
- 5 As the United States Supreme Court has stated, “The term ‘mobile home’ is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about one in every hundred mobile home is ever moved.” *Yee v. Escondido*, 503 U.S. 519, 523 (1992).
- 6 *Gustafsson*, 370 Mass. at 190.
- 7 *Id.* at 191.
- 8 *Greenfield*, 423 Mass. at 86 (citation omitted).
- 9 *Gustafsson*, 370 Mass. at 189.
- 10 *Commonwealth v. DeCotis*, 366 Mass. 234, 243 & n. 7 (1974).
- 11 *Greenfield*, 423 Mass. at 83.
- 12 *DeCotis*, 366 Mass. at 243 n. 7.
- 13 E.g., *Greenfield*, 423 Mass. at 86 (stating with regard to § 32R of the Act, “It is difficult to imagine a more appropriate and close-fitting method to further the legitimate interest of the Commonwealth”).
- 14 See St. 1993, c. 145 §§ 1 et seq.
- 15 St. 1993, c. 145 §§ 14, 16.
- 16 When the Act was amended in 1993, there were 13 manufactured housing communities that had pending notices of discontinuance. Most, if not all, of the threatened closings occurred shortly after the local imposition (or threat) of rent control for manufactured housing communities.



- 17 Formerly, the Director was known as the Secretary of the Executive Office for Communities and Development.
- 18 M.G.L. c. 140, § 32L(5); 940 C.M.R. 10.04(1)(a)(2).
- 19 M.G.L. c. 140, § 32L(7).
- 20 The Attorney General's Office gratefully acknowledges that over an approximately seven-year period, the law firm of Hill & Barlow devoted considerable pro bono time to assisting the Office of the Attorney General with the many difficult issues relating to manufactured housing.
- 21 M.G.L. c. 140, § 32L(1).
- 22 The Regulations, however, do not apply to disputes among shareholders of a cooperatively owned community. See Section II.I.1 of this guide.
- 23 For a discussion of the Manufactured Housing Commission, see Section III.A.7 of this guide.
- 24 This guide uses the term "owner/operator" to refer to the owner(s), the operator(s) and/or the manager of the community.
- 25 The Registry of Motor Vehicles does not recognize manufactured homes as titleable vehicles, although homes must be registered if put on the road.
- 26 An exception to this general rule was found where a manufactured home was permanently affixed to a poured concrete foundation, with a full cellar. *Ellis v. Board of Assessors of Acushnet*, 358 Mass. 473 (1970).
- 27 All license fees must be deposited with the local tax collector by the tenth day of the month after they are collected from tenants. Failure to comply with this requirement may subject the owner/operator to fines and revocation of the community's license. M.G.L. c. 140, § 32G.
- 28 For list of local consumer programs, see Appendix H.
- 29 The "tenant" is the person who has the oral or written occupancy agreement allowing the person's household to use and occupy a manufactured homesite in the community. 940 C.M.R. 10.01. A "resident" of the community may be the tenant, a subtenant, or any other individual who normally resides in the home in the manufactured housing community. *Id.* The "homeowner" is the individual who actually owns the manufactured home.
- 30 One exception to the broad rule forbidding housing discrimination is that a qualifying retirement community may impose a residency restriction based on a minimum age (either 55 or 62, depending upon the type of retirement community); any other so-called "adult community" is not lawful.

- 31** Although not expressly called “occupancy agreements,” these written disclosures may constitute a “written agreement ... for use and occupancy of a manufactured homesite, common areas, facilities, and other appurtenant rights,” within the meaning of 940 C.M.R. 10.01. Owner/operators should make sure that they disclose all fees and charges in these written disclosures. Such disclosure will likely satisfy the regulatory requirement that fees and charges are impermissible unless included in a occupancy agreement. See, e.g., 940 C.M.R. 10.03(2)(k).
- 32** In order to protect your investment in your new home, as well as to guard against any liability to others, it is advisable to carry homeowner’s insurance. If you have a mortgage on your home, the insurance required by your bank or mortgage company ordinarily will be sufficient.
- 33** The community owner/operator may also offer a tenant a shorter term or longer term, up to life, as long as he or she also offers the tenant the option of a five-year term.
- 34** Fair market rental rates are “the rental rates that would be charged in the market between a willing owner/operator of a manufactured housing community and a willing prospective tenant seeking initial residency in the community, each acting freely and with out compulsion or collusion, of the manufactured homesite in question.” 940 C.M.R. 10.01. The rate is not necessarily a single fixed rate for the entire five-year period, but might, for example, allow for an adjustment based on increased real estate taxes assessed on the community’s land. M.G.L. c. 186, § 15C.
- 35** A sublease typically is meant to be a temporary arrangement where a subtenant returns the lot to the original tenant before the tenancy ends, while an assignment is where a tenant makes an agreement to rent the lot to someone and does not plan to return.
- 36** The written receipt must include very specific information, including: the amount of money received; the date the money was received; the intended use of the money; the name of the person receiving the money; the name of the community owner/operator (if different than person receiving the money); a statement that you are entitled to the interest on the deposit; the address and lot number of the rented premises; the location and name of the bank where your money is deposited; the account number of the fund in which your money is deposited; and a statement that you should give the community owner/operator a forwarding address so he or she can send you interest when you move. M.G.L. c. 186, § 15B.
- 37** A “reasonable insurance requirement” means an amount and type of insurance coverage that is reasonably related to the nature, scale and risk of potential loss, and does not exceed the prevailing average amount or type of coverage that is customarily required of suppliers of the particular good or services in the area. 940 C.M.R. 10.01.
- 38** Some community owner/operators try to avoid these costs by claiming that the residents have purchased their above-ground oil tanks. This argument often fails because purchasing the tank may have been an impermissible condition of entry into the community rather than arms-length transaction.
- 39** In this guide, associations of tenants, residents, or homeowners in general will be referred to as “residents’ associations.”

- 40** The law requires that tax escalator clauses be written in a certain form, which is set forth in M.G.L. c. 186, § 15C. It must state that: your portion of the property tax increase is in the same proportion as your lot bears to the whole property being taxed; the exact percentage of any increase; and that if your community owner/operator gets a tax refund or “abatement,” you will receive your proportionate share of the refund (after subtracting out the community owner/operator’s legal fees in connection with the reduction).
- 41** Although most rent control was abolished in Massachusetts as of January 1, 1995, manufactured housing communities were specifically exempted from that law. *Quinn v. Rent Control Board of Peabody*, 45 Mass. App. Ct. 357, 376-77 (1998).
- 42** A judge may order you to pay the fair rental value of your homesite, which could be more or less than your old rent, depending on the condition of your site. M.G.L. c. 239, § 11.
- 43** If you have a lease, a community owner/operator may also try to collect a late charge through what is called a “discount clause.” This clause may be a disguised late payment penalty clause, and thus is illegal if it conflicts with 940 C.M.R. 10.03(2)(i).
- 44** Increased water, sewer and trash removal charges are the types of costs that may justify a per capita charge.
- 45** This requirement ensures that per capita charges will not have a discriminatory impact on families with children in violation of the federal Fair Housing Act. See 42 U.S.C. § 3604(b).
- 46** Sometimes, community owner/operators seek to recover capital costs under 940 C.M.R. 10.03(2)(1) but their residents have no written occupancy agreements. Such owner/operators may recover costs only if they are included in the written disclosures required under 940 C.M.R. 10.04(4).
- 47** This is the standard that the Attorney General’s Office uses for purposes of evaluating community rules imposing 55-and-older, or 62-and-older age restrictions. However, in the past the “constructed expressly for use” requirement has been interpreted – by the Massachusetts Commission Against Discrimination (the “MCAD” or the “Commission”) – much more stringently, to mean that in order to qualify for the exemption, a community must have been originally constructed for use as a retirement community; it would thus be impermissible to convert from a general access community to a retirement community. Community owners or residents with questions about this requirements should contact the Commission. See Section III.A.8 of this guide.
- 48** If, however, on September 13, 1998, there were residents living in the community who were under age 62, they need not be required to leave the community to qualify for the exemption, so long as all unoccupied units are reserved for persons age 62-and-over from then on. 24 C.F.R. 100.303.
- 49** Sellers may want to accompany the buyer to the screening interview. Some owner/operators have used the screening interview to persuade prospective purchasers to

- buy a home from the community owner/operator instead. Also, if a notice of discontinuance is pending, it is not enough for the community owner/operator to simply inform a prospective buyer of this fact; he or she must also communicate any other relevant information, such as whether the notice is being legally challenged, and whether a court has issued any rulings that attack the validity of the notice. 940 C.M.R. 10.07(1)(c).
- 50** He or she must simultaneously send a copy to the Attorney General, the Director of DHCD, and the local board of health. M.G.L. c. 140, § 32R(a).
- 51** The total price of a proposed sale must be calculated as a lump sum that includes the present value of any installment payments offered and any promissory notes offered in lieu of cash payment. In the case of a proposed lease of the property, the capitalized value of the annual rent must be stated. M.G.L. c. 140, § 32R(b).
- 52** The residents' or homeowners' association need not be incorporated to qualify under the statute. M.G.L. c. 140, § 32R(b).
- 53** The right of first refusal does not apply to: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure by an unrelated third party; transfer by gift, devise or operation of law; or a sale to a person who would be an heir at law if there were to be a death of intestate of a manufactured housing community owner/operator. M.G.L. c. 140, § 32R(d).
- 54** One example of a "binding commitment" is a typical financing agreement, subject to conditions that are customary and commercially reasonable. 940 C.M.R. 10.09(3)(b).
- 55** The language of § 32R(d) does not, however, authorize a community owner/operator to walk away from the residents' purchase and sale agreement if a new, higher offer is received from the original offeror. Assuming the resident's offer matched the original offer, it would be "unreasonable" for the owner/operator to refuse the residents' offer since the community owner/operator has already provided notice, in writing, that he or she "intend[ed] to accept" the virtually identical original offer.
- 56** A Notice to Quit states that you must "deliver up" or "vacate" the premises by a certain date. You do not have to move out by this date. The purpose of the Notice is to give you warning of your landlord's desire to terminate your tenancy, the first step of the eviction process.
- 57** The answer date is listed on the summons. The filing costs do not include your community owner/operator's attorney's fees or the cost of serving the Notice to Quit. They do not include the costs of the summons and complaint forms, serving those forms on you, and filing them in court.
- 58** There are six Housing Courts: Boston Housing Court, Hampden County Housing Court, Northeast Housing Court, Southeast Housing Court, Western Housing Court, and Worcester County Housing Court. The clerk of your local District Court may be able to help you determine whether your municipality falls within the jurisdiction of any of these courts.

- 59** If you had a good reason for failing to answer, you can ask a judge to remove the default judgment. Ask the clerk's office for a form to remove the default, fill it out and file it with the court.
- 60** There are three kinds of discovery you can use: (1) interrogatories, a list of up to 30 questions that your community owner/operator must answer in writing and under oath; (2) a request for production of documents, a written request for copies of documents that are in the community owner/operator's possession; and (3) a request for admissions, a written request asking the community owner/operator to admit or deny certain statements. Unif. Summ. Proc. R. 7.
- 61** If you have filed a notice of appeal within 10 days after entry of the judgment against you, the execution will not issue unless and until the appeal has been decided against you.
- 62** See St. 1993, c. 8, §§ 1 et seq. (Raynham); St. 1989, c. 561, § 7 (North Reading); St. 1988, c. 259, § 7 (Salisbury); St. 1987, c. 302, §§ 1 et seq. (Peabody).
- 63** See *Quinn v. Rent Control Board of Peabody*, 45 Mass. App. Ct. 357 (1998).
- 64** An owner/operator whose notice of discontinuance or change of use is not given in good faith is not entitled to any increase in rent otherwise allowed during the two-year period. M.G.L. c. 140, § 32L(7A).
- 65** You are not entitled to monetary compensation if you purchased a home or moved a home into the community, after receiving actual notice that the community owner/operator had issued a change of use or discontinuance notice to the residents. 940 C.M.R.10.10(3)(a).
- 66** The appraised value is the "fair market value of the home and any existing appurtenances, but excluding the value of the underlying land, determined by an independent appraiser agreed to by the community owner and the tenant." The appraiser is to value the home as if it were going to be located on a manufactured housing community site, with all hook-ups. M.G.L. c. 140, § 32L(7A).
- 67** The purpose of the state sanitary code is to protect people's health, safety, and well-being, by setting minimum legal standards that community owner/operators must follow. For example, it contains minimum standards concerning the provision of water, electricity, and sanitary sewage disposal. Certain conditions must be corrected within 24 hours, others within 5 days, and all violations must be repaired within 30 days of notification to the community owner/operator. 105 C.M.R. 410.830.
- 68** St. 1993, c. 145, § 1.
- 69** It is a criminal act for a community owner/operator to willfully allow violations of the state sanitary code, with a possible fine of up to \$500. M.G.L. c. 111, § 31.



**APPENDICES**

**Appendix A:**  
Explanation of Legal Citations ..... 63

**Appendix B:**  
The Attorney General’s Model Rules for Manufactured Housing Community Living ..... 65

**Appendix C:**  
M.G.L. c. 140, § 32 ..... 77

**Appendix D:**  
940 C.M.R. 10.00 ..... 91

**Appendix E:**  
Model Notices ..... 111

**Appendix F:**  
Officers of the Mobilehome Federation of Massachusetts ..... 113

**Appendix G:**  
Contact for the Massachusetts Manufactured Housing Association ..... 115



### Explanation of Legal Citations

This Law Guide is not the law. It is a guide to the law prepared by the Attorney General's Consumer Protection Division, which enforces the Manufactured Housing Act. It does not constitute an official opinion of the Attorney General; the Attorney General's statutory authority to issue opinions extends only to requests by certain state officials, District Attorneys and branches of committees of the Legislature. M.G.L. c. 12, §§ 3, 6, 9. For further clarification of the significance of this Guide or any of the following legal citations or Latin phrases, please consult a legal aid or private lawyer.

**Legal Citations.** References to particular laws and regulations are included in this booklet. Statutory citations can be checked at most local libraries and on the General Court website ([www.mass.gov/legis](http://www.mass.gov/legis)), and regulations can be obtained through the State House bookstore.

**Citation Form** The following are examples of what the legal citations mean:

<b>M.G.L. or G.L.</b>	Massachusetts General Laws
<b>M.G.L. c. 140, §§ 32A-S</b>	Manufactured Housing Act
<b>C.M.R.</b>	Code of Massachusetts Regulations
<b>U.S.C.</b>	United States Code
<b>C.F.R.</b>	Code of Federal Regulations
<b>__Mass.__</b>	Decision of the Massachusetts Supreme Judicial Court
<b>__Mass. App. Ct.__</b>	Decision of the Massachusetts Appeals Court
<b>__U.S.__</b>	Decision of the United States Supreme Court
<b>Unif. Summ. Proc. R.</b>	Massachusetts Uniform Summary Process Rules
<b>940 C.M.R. 10.00</b>	Office of the Attorney General's Manufactured Housing Community Regulations
<b>105 C.M.R. 410.00</b>	Massachusetts Sanitary Code Minimum Standards of Fitness for Human Habitation
<b>M.G.L. c. 111, § 127</b>	Massachusetts Sanitary Code Authorities and Procedures
<b>M.G.L. c. 93A</b>	Massachusetts Consumer Protection Act
<b>M.G.L. c. 151B</b>	Massachusetts Anti-Discrimination statute
<b>M.G.L. c. 186</b>	Massachusetts Terms of Tenancy statute
<b>M.G.L. c. 239</b>	Massachusetts Summary Process Act

Reference to, for example, "Section II.D.1.b" refers to Section II of this guide ("A Consumer's Guide to Manufactured Housing Community Living"), Subsection D ("Community Conditions"), Paragraph 1(b) ("Community owner/operator's maintenance responsibility/Common areas").

<b>E.g.</b>	For example
<b>Et seq.</b>	And everything following
<b>Id.</b>	Same as the last legal citation



### **The Attorney General's Model Rules For Manufactured Housing Community Living**

With the helpful contributions of representatives of the Massachusetts Manufactured Housing Association (the "MMHA"), the Mobilehome Federation of Massachusetts (the "MFM"), and a representative of the Department of Housing and Community Development and the Manufactured Housing Commission, the Attorney General's Office developed the following model community rules governing residents' occupancy and use of the homesite and common areas in a manufactured housing community. These Model Rules comprehensively address a wide range of issues faced by the majority of manufactured housing communities in the Commonwealth. Adopting these Model Rules word for word will provide fair, clear, and balanced rules for your community, simplify your process for creating community rules, and assure that your community's rules satisfy the requirements of the law applicable to manufactured housing communities, and receive favorable review by the Attorney General's Office.

Although most of the Model Rules may be uniformly adopted by communities statewide, certain rules allow for flexibility to address each community's needs. In particular, rather than adopt a blanket rule on use of water, the Model Rules allow communities to adopt watering schedules that reflect local ordinances and water bans that may change from time to time. (See Rule 13, Water Use.) Similarly, the Model Rules allow communities to develop their own reasonable rules for use of common recreational facilities – such as clubhouses or pools – as long as such rules are posted and/or made available to all residents and their guests in conspicuous related areas. (See Rule 30, Clubhouse and Recreational Facilities.) The Model Rules also allow community owner/operators to add information unique to their community. This fact is indicated either by a blank space ( ) or by bracketed language [ ] indicating what sort of information may be inserted to tailor the rule to the community's unique needs. Rule 1 (Community Owner(s), Manager, and Emergency Phone Number) provides space for the name, address, and phone numbers of the community owners and manager, and the emergency phone number for the community. Rule 5 (Rent) allows each community owner to determine the day of the month that the rent is due. Rule 14 (Garbage and Rubbish Collection and Disposal) allows the owner/operator to describe the method for trash collection. Rule 15(e) (Exterior Aesthetic Standards for Community) allows for a description of the community's aesthetic standards. Rule 18 (Digging) provides space for the state "Dig Safe" number, which is currently (888) 344-7233, but is subject to change.

Please understand that owner/operators who use the Model Rules are still required to follow the statutory review process for community rules. In order to expedite that review, owner/operators should indicate in the cover letter accompanying their submission whether they have adopted the Attorney General's Model Rules verbatim. Although we encourage using the Model Rules in their entirety, we recognize that certain communities may want to tailor the Model Rules to their unique needs. To the extent that any owner/operator wants to use the Model Rules in part – i.e, he or she intends to either modify or omit certain rules – he or she should indicate that fact in writing when submitting the rules for review to the Attorney General's Office. In particular, any changes in language or any rules added should be in bold font. In addition, if you omit any of the rules included, you should list the rules omitted in your cover letter.



**RULES OF [INSERT NAME OF COMMUNITY]**

These rules govern the homeowners/residents' occupancy and use of the homesite and common areas in the community. They are intended to promote the convenience, quiet enjoyment, safety, and welfare of the residents in this community; preserve the property of both residents and the community owner/operator; preserve and enhance the quality of life in the community; and allocate services and facilities in a fair and appropriate manner.

**1. Community Owner(s), Manager and Emergency Phone Number**

Community Owner(s)' Name(s), Address(es) and Phone Number(s):

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Community Manager's Name, Address and Phone Number:

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Emergency Phone Number:

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These rules use the term "owner/operator" to refer to either the owner(s), the operator(s), and/or the manager of the community.

**2. Application for Tenancy**

Any person intending to establish tenancy in this community (the "applicant") must first fill out an application with the community manager in advance. The approval process must be completed after the initial agreement is reached, but before the sale, transfer, or sublease of the manufactured home is finalized. Tenancy applications shall be approved, and the owner/operator shall consent to entrance by the applicant and members of the applicant's household, if the applicant and the members of his or her household meet the currently enforceable rules of the community and the applicant provides reasonable evidence of financial ability to pay the rent and other charges associated with the tenancy in question. The owner/operator shall have 10 calendar days to consider each application. Approval of applications for tenancy shall not be unreasonably withheld or delayed. As part of this application process, a copy of the Community Rules will be provided to each prospective applicant.

**3. Registration**

Upon approval of the application for tenancy in the community, all residents in the community must register with the owner/operator. This registration requirement applies to all persons who intend to reside in the community with the exception of guests who remains less than 90 days in any 12 month period.

#### **4. Residents' Rights and Responsibilities under the Law**

(a) All terms and conditions of occupancy shall be disclosed in writing and delivered to any prospective tenants, including, without limitation, any existing tenants whose current tenancy is being amended, renewed, or extended, and approved subtenants.

(b) These terms and conditions of occupancy are entitled the "Written Disclosures" and shall include at a minimum the Community Rules with attached "Important Notice Required by Law," along with the following: (a) the amount of rent; (b) an itemized list of any usual charges or fees; (c) the proposed term(s) of occupancy, including the option of a lease for a term of five years; (d) the names and addresses of all owners and operators of the community; (e) the size and location of the manufactured homesite, including any known defects; and (f) a description of all common areas and facilities and any restrictions on their use. In addition, the owner/operator shall make available for resident inspection a copy of the Attorney General's manufactured housing regulations (940 C.M.R. 10.01 et seq.), either at the manager's office or in the area where the Community Rules are posted.

(c) Such Written Disclosures and Community Rules shall be signed and delivered by the community operator at least 72 hours prior to the signing of any occupancy agreement or the commencement of any new occupancy. All residents are required to sign a receipt acknowledging they have received and read both the Community Rules and Written Disclosures.

#### **5. Rent**

The due date for payment of rent is on the \_\_\_\_ day of the month, and if not received by the fifth day following, will be recorded as received after the due date. Any fees which may be imposed either for late payments (30 days after the due date) or for checks returned for insufficient funds shall be listed in the Written Disclosures. Failure to pay rent as provided by law may provide grounds for evicting you from the community.

#### **6. The Homesite**

A rented site shall be used as the site for only the following: the manufactured home, which is to be used primarily as a residence; two personal motor vehicles; and ancillary structures or areas, such as [choose those that apply: patio areas, decks, porches, sheds, carports, or garages.]

#### **7. Occupancy**

In every home, there shall be no more than two occupants per bedroom, unless a higher or lower number is permissible according to the standards of the United States Department of Housing and Urban Development ("HUD") or other applicable local, state or federal law.

#### **8. Common Areas**

The common areas of the community include the roadways and every area in the community except the homesites and those areas restricted from residents' use, as disclosed in the Written Disclosures.

## 9. Utilities

**a. Owner/Operator's Responsibility:** The owner/operator shall provide, pay for, maintain, and repair systems for providing water, sewage disposal, and electricity, up to the point of connection with each manufactured home, in accordance with applicable laws.

**b. Tenants' Responsibility:** Tenants are responsible for paying for the maintenance and repair of utilities from the point of connection to the manufactured home to the inside of the home.

**c. Cable TV and Telephone Service:** Each homeowner shall pay for all cable TV, telephone, and Internet service actually provided to the manufactured home.

**d. Metered Utilities:** Each homeowner is required to pay for his or her own use of gas, oil, and electricity, as long as (1) there is individual metering by a utility or utilities, (2) the meter serves only the individual home, and (3) the homeowner's payment obligation has been disclosed in the Written Disclosures.

**e. Changes in Gas and Electrical Service:** Any homeowner wishing to make changes, increases, or alterations to his or her gas or electrical service must first notify the owner/operator that he or she has have obtained proper permits and complied with all applicable electrical or other safety codes.

**f. Tampering With Utilities:** Tampering with meter boxes and utility services is not permitted.

**g. Disposal of Wastes:** The community's utilities and septic systems shall be regularly maintained in accordance with applicable laws. Residents may not dump, flush or discharge any hazardous or toxic waste, or other harmful or improper wastes or substances into the disposal systems or drains — such as toilets, showers, bathtubs, and sinks — which serve the home, clubhouse, or other common area in the community. Examples of substances and wastes covered by this rule include the following: aluminum foil, sanitary napkins, baby diapers, baby wipes, coffee grounds, oatmeal, leaves, grease, paint, oil, gas, motor oil, coolant, oil filters, or solvents. Residents shall dispose of such substances and wastes according to proper handling and removal instructions and according to law.

## 10. Satellite Dishes

Residents may install satellite dishes no larger than that allowed by current F.C.C. regulations (up to 39 inches in diameter, as of August 2000), as long as they obtain prior written approval of the owner/operator, which approval shall not be unreasonably withheld or delayed. All satellite dishes, regardless of size, should be installed with respect for the safety and view of neighbors.

## 11. Maintenance of Community Roadways, and Other Common Areas

The community owner/operator shall maintain the community roadways and common areas within the community in good repair, and in compliance with applicable health and safety laws. As part of this responsibility, the owner/operator shall ensure that roadways are

reasonably free of debris and potholes, and other common areas are clean, in good repair, and free from debris and rubbish.

## **12. Snow Removal**

The community owner is responsible for clearing snow and removing ice, where necessary, from the community roadways and other common areas. Residents are responsible for clearing snow and removing ice, where necessary, on their homesites. When removing snow from driveways, residents should make efforts to put the snow in their own yards and not in community roadways.

## **13. Water Use**

**a.** Residents are encouraged to be aware of water conservation at all times. Residents should make every effort not to leave any faucets or toilets running, leaking, or dripping, and water shall not be left running to protect against freezing.

**b.** Residents may use the community's water for their ordinary personal and household needs. Excessive use of water, over and above personal and household needs, is not acceptable, and this rule shall be applied in a reasonable and non-discriminatory manner.

**c.** Watering of lawns is permitted by means of hand-held watering devices and/or other watering devices in accordance with schedules which reflect local ordinances and water bans and are changeable from time to time. Such schedules shall be posted in common areas.

## **14. Garbage and Rubbish Collection and Disposal**

**a.** The owner/operator shall be responsible for the final removal of residents' ordinary household garbage and rubbish. [Describe method for trash collection — whether municipal collection system or any other system approved by the board of health, and date and time of trash collection.]

**b.** All residents shall store garbage and trash inside the home or shed until the day(s) designated for trash removal, and shall pack such garbage and trash in bags or containers that are leak-proof and securely fastened.

**c.** It is the resident's responsibility to dispose of larger items that require special handling, such as appliances, furniture, and hot water heaters.

**d.** If the municipality or trash collection company imposes recycling rules, the owner/operator may require residents, without charge, to comply with such recycling rules, once the residents have received reasonable notice of such recycling rules.

**e.** Yard waste and dead brush may be disposed of only in areas designated by the community owner/operator.

**f.** Residents may not dump trash on common areas.

## 15. Aesthetic Standards for Exterior of the Home and Site

**a. Maintenance of Structures:** All homes, exterior doors, steps, patio areas, additions, decks, porches, skirtings, awnings, sheds, fences, and/or other outside structures shall be maintained by the tenant in good repair and structurally sound condition; free of rust spots or unsightly chipped, peeling, or flaking paint; free of broken windows, where applicable; and in compliance with all applicable governmental requirements.

**b. Maintenance of Site:** All residents shall keep their site neat, clean, and free from yard waste, dead brush, garbage, and other refuse. Lawns and shrubs should be kept mowed and trimmed to prevent them from appearing overgrown.

**c. Repairs to the Home or Site by Community Owner/Operator:** If the home's exterior does not comply with any enforceable community rule, the owner/operator may notify the resident in writing that: specific work is required to bring the home or site into compliance with such rule, and the owner/operator will perform the work at the resident's expense if the resident does not do the work within 10 days of receiving such notice. The notice must also specify the amount that will be charged to the resident. If the resident does not do the work within 10 days of receipt of such notice, the owner/operator may perform the work and charge the resident the amount specified in the notice, provided that such charges have been listed in the Written Disclosures described in Rule 4.

**d. Structural Modifications to Home or Site:** With the exception noted below, any external structural modifications to the home or site must conform to the general aesthetic standards, for materials, design and siting, of the majority of homes in the community. For purposes of this rule, the term "external structural modifications" includes, among other things, any change in the structure of the outside of the home itself or patio areas, or the erection or alteration of any additions, decks, porches, skirtings, awnings, sheds, fences, enclosures, or other outside structures. Such external structural modifications may be made only with the written approval of the owner/operator, who will determine whether the plans or drawings comply with the community's reasonable rules on aesthetic requirements and whose approval shall not be unreasonably withheld or delayed. For those improvements requiring the approval of the local building inspector, the resident may not begin the work until he or she has submitted to the owner/operator reasonable proof of such approval by the local building inspector. The community owner/operator shall not enforce any otherwise enforceable rule governing the exterior of homes against homes built before June 15, 1976, if it would not be practicable or possible for such home to conform with such rule because the home does not comply with the federal standards for construction of manufactured housing that were made effective on that date.

**e. Exterior Aesthetic Standards for Community:** A list of exterior aesthetic standards for our community include: [Each individual community should list their specific aesthetic standards here, based on the majority of homes.]

## 16. Interior Appearance and Improvements

Tenants shall be responsible for the interiors' compliance with applicable governmental health, safety, and other regulations, and shall only be subject to enforcement by the appropriate governmental authorities.



## 17. Landscaping

**a. Landscaping by Owner/Operator:** With regard to landscaping — such as plants, trees or shrubs — that the owner/operator has done at the homesites or in common areas, residents may not remove or substantially change the appearance of such landscaping without the approval of the owner/operator. In addition, no trees planted by the owner/operator shall be trimmed without the permission of the owner/operator. Such approval shall not be unreasonably withheld or delayed. This rule does not prevent residents from doing routine gardening at their site or engaging in regular maintenance of their lawns, shrubbery, and other plantings. In addition, this rule does not prohibit residents from removing any improvements made by the resident (including landscaping), as long as the resident repairs any damage to the homesite caused by the removal of such improvements.

**b. Landscaping by Residents:** Most utilities are located underground and therefore residents may only do substantial landscaping of their sites after complying with all enforceable rules on digging (see Rule 18 below) and obtaining owner/operator's prior written approval, which shall not be unreasonably withheld or delayed. This rule does not prevent residents from doing routine gardening at their site or engaging in regular maintenance of their lawns, shrubbery, and other plantings.

## 18. Digging

Before a resident begins to dig or excavate on his or her site, he or she must notify "Dig Safe" and comply with state "Dig Safe" law. The number for Dig Safe is (888) DIG-SAFE (344-7233), or you may visit Dig Safe online at [www.digsafe.com](http://www.digsafe.com). The owner/operator must be given notice of the appropriate Dig Safe clearance numbers and clearance dates. This rule does not prohibit residents from doing routine gardening and maintenance of lawns and shrubbery.

## 19. Goods and Services

The resident may hire any vendor, supplier, or contractor of his or her choice to provide goods and services for the home and homesite. For those vendors, suppliers, or contractors (the "vendor") whose provision of goods or services may pose risks to the health, safety, welfare, or property of other residents, the owner/operator, or the community as a whole, the resident can hire that vendor only if, before such goods or services are provided, the vendor submits to the resident reasonable evidence that he or she has insurance in an amount reasonably related to the size of the risk(s), and such reasonable evidence shall be provided to the owner/operator upon request.

## 20. Soliciting

Except for such suppliers engaged or about to be engaged by residents and/or the owner/operator, other commercial vendors are prohibited from soliciting and peddling within the community.

## 21. Storage

Residents should not use patios, decks, porches, or lawn areas for long-term storage of items such as bottles, paint cans, trunks, boxes, snow blowers, lawn mowers or other equipment, furniture, bicycles, lawn and garden tools, gas bottles, wood, metal, and other materials. Such

items must be stored inside or under the home, or in a shed or garage (if any). The resident may keep lawn furniture and other similar outdoor seasonal items outside the home during the seasons when they are not in use, provided that they are placed on a deck, patio, or porch, and do not interfere with lawn maintenance.

## **22. Fire Safety**

Because of the proximity of the homes in the community, the risk of fire damage to surrounding homes, and potential risks to those with pulmonary illnesses, residents are reminded that if they make interior improvements to the home involving equipment posing substantial fire risks — such as fireplaces, wood stoves, and other equipment involving open fires — they are responsible for ensuring compliance with all applicable governmental health, safety and other regulations on public health and fire safety, including those of the local fire department. This rule does not apply to equipment that is already part of the structure of the manufactured home and does not prohibit the use of charcoal or gas grills for cooking at the resident's homesite. Residents shall carefully attend to any fire or hot coals in their outdoor grills, and obey all local ordinances regarding open fires.

## **23. Owner/Operator's Right of Entry**

The owner/operator may enter onto a tenant's site in case of emergency that threatens the safety or property of the tenant or others. The owner/operator may also enter the site either to inspect the pad, utility connections, and the general condition of the site, or to show the site to individuals interested in renting the site or purchasing the home; however, in such cases, the owner/operator must provide reasonable advance notice before entering onto the site. The owner/operator will not enter a manufactured home unless the tenant has provided prior consent in writing on a separate document addressing only the issue of consent.

## **24. Residents' Conduct**

**a. Compliance With Applicable Laws and Community Rules:** All residents shall abide by all enforceable community rules, any fire, health, safety, and sanitary laws, and all other relevant national state or local standards that are applicable to the community and/or the home. Residents will make sure that their children and guests are sufficiently informed so that they understand and comply with all reasonable and applicable community rules.

**b. Privacy, Use and Quiet Enjoyment:** Residents and their guests shall not interfere with the other residents' privacy, use, and quiet enjoyment of their homes or homesites at any time.

**c. Noise and Disturbances:** Residents may not play any stereo, radio, or television, or otherwise create noise, at a level that unreasonably interferes with other residents' right to quiet enjoyment of their homes and homesites. Reasonable quiet must be maintained between the hours of 10:00 p.m. and 7:00 a.m., or during the time period specified in any applicable local by-law or ordinance.

**d. Interference With TV and Radio Reception:** The community does not permit any short wave or CB equipment or similar device that interferes with other residents' privacy or their ability to receive television, radio, or other transmissions.

**e. Use of Firearms and Fireworks:** Discharging of firearms, paint guns, or air guns is prohibited within the community area. The use of fireworks in the community is prohibited.

## 25. Non-Residential Activities

Non-residential activities are permissible in the home or at the homesite, as long as residents conform to all applicable zoning and other laws, and do not substantially disrupt the residential nature of the community. Excessive parking, traffic, and noise may be examples of such substantial disruptions of the community's residential nature. In addition, if non-residential activities lead to long-term excessive use of utilities, they may fall under this rule.

Yard sales are permitted [insert reasonable time and manner restrictions.] Residents must request the owner/operator's approval to hold yard sales; and such permission shall not be unreasonably withheld or delayed.

## 26. Pets

All pets must be properly licensed by and immunized, if so required by the local municipality. All residents must disclose to the owner/operator ownership of any pets that go outside. All pets, whether inside or outside the home, are prohibited from disturbing the peace and quiet, and threatening the health, safety or property of residents. No resident may keep a pet whose conduct has endangered the health, safety or property of other residents or their guests. Whenever a pet is outside your home, it must be reasonably restrained at all times, by either a leash or other reasonable restraint. The pet owner is responsible for cleaning up after his pet. If the pet owner violates this rule, the owner/operator may take whatever steps are permitted by law to have the pet removed from the community. [With regard to any pets that go outside, if the insurance policy for the community contains restrictions on pets you may include the following statement: "Our insurance liability policy restricts the following pets: [list], and they may not be brought into the community."]

## 27. Vehicles and Parking

**a. Two Personal Motor Vehicles Per Site:** Residents may park up to two personal motor vehicles at their site. [For any communities with sites that accommodate only one or no personal motor vehicles, you must submit a rule indicating that each home has spaces designated for up to two personal motor vehicles designated near to the home.] A personal motor vehicle is any registered vehicle that does not exceed a gross weight of 8,600 pounds, with two or more axles.

**b. Guest Parking:** In addition to parking in designated parking spaces on the homesite, guests may park their vehicles [choose one: (1) in the guest parking areas or (2) on the street], as long as they do not interfere with the safe passage of emergency vehicles and other residents' rights to use and quiet enjoyment of their homes and homesites.

**c. Unregistered Vehicles:** No permanently unregistered vehicles that are unsightly, in obvious disrepair, or in violation of local ordinances shall be permitted in the community.

**d. Other Vehicles:** Boats, trailers, motor homes, recreational vehicles, and commercial vehicles over 8,600 pounds may be kept in the community only if the owner/operator provides permission and a storage area for such purposes.

**e. Violations and Towing:** Any vehicle parked in violation of any enforceable rule, shall, after reasonable notice to the vehicle owner and the appropriate local authorities, be towed at the expense of the owner of that vehicle.

## 28. Use of Community Roadways

**a. Speed Limit:** All vehicles shall be driven at a safe speed within the community. In any case, the speed shall not exceed either the posted speed limit or 15 miles per hour.

**b. Interference With Residents' Right to Use and Quiet Enjoyment:** Residents and their guests shall operate their motor vehicles in a safe manner and obey all road signs, signals, and speed limits posted in the community. No vehicle may be operated by an unlicensed driver or in a manner that interferes with other residents' quiet enjoyment of their homes.

## 29. Repair of Vehicles

**a. Major Repairs:** Major overhauling, major repairs, major spray painting, changing of oil, or any other significant repairs to vehicles is not permitted in the community if such work may involve a risk of leakage of petroleum products. Residents are permitted to do minor repairs of their vehicles within the community as long as there is not such risk of a petroleum product leak.

**b. Oil or Gas Leaks:** Vehicles that are leaking or dripping oil or gas must be promptly repaired. If such leaks are not repaired, the owner/operator shall provide the resident with written notice of the leak and provide a reasonable period of time to repair such leak or remove the vehicle from the community; if residents fail to take corrective action within such reasonable period of time, the owner/operator may take steps to have the vehicle removed or seek other relief for such conduct. Any resident who fails to comply with this rule and whose failure causes damage to the driveway may be liable for costs related to repair of the driveway or roadway if such costs are the result of the resident's fault.

## 30. Clubhouse and Recreational Facilities [where applicable]

**a. Health and Safety Regulations:** Anyone using the clubhouse, pool, recreational facilities, or other common areas shall abide by any applicable health and safety regulations and any reasonable rules for use of such clubhouse, pool, recreational facility, or other common area. Rules for such areas shall be posted and/or made available to all residents and their guests in conspicuous related areas. Such rules shall be reasonable and in accordance with applicable law and, where necessary, are subject to the same review provisions as that for the Community Rules.

**b. Resident Meetings:** Residents may hold meetings at the clubhouse or other common area facility at no charge, subject to the availability of the facility.

## 31. Subleasing of Sites and Renting of Homes

- All proposed subtenants must submit applications for residency, described previously in Rule 2. All proposed subtenants will be approved as long as they provide the owner/operator with

reasonable evidence that they have the financial ability to pay all rent and other charges, and comply with all enforceable community rules, including the registration requirement in Rule 3. Even after the owner/operator approves a subleasing arrangement, the original tenants continue to be responsible for the rent, other charges of the community, and compliance with the Community Rules.

### **32. Sale, Lease, or Transfer of Manufactured Home**

Homeowners have the right to sell their homes on their homesites. Any homeowner wishing to sell, lease, or transfer ownership or occupancy of his or her home shall notify the owner/operator at least 30 days before the intended sale, lease or transfer. Potential buyers, subtenants, and transferees are required to submit residency applications governed by Rule 2. This approval process must be completed after the initial agreement is reached but before the sale, lease, or transfer is finalized. The owner/operator has ten calendar days to consider applications, which are deemed to be approved if, after 10 calendar days, the owner/operator has not rejected the application and given the reasons for that rejection, in compliance with Rule 2.

### **33. Broker for Sales of Homes**

Homeowners who sell their homes may sell their homes directly, or use any broker of their choosing. In addition, homeowners may, if they wish, contract to have the community owner/operator act as their broker. Under those circumstances, homeowners should enter into and sign a separate written agreement naming the owner/operator as their broker and charging a broker's fee of no more than 10% of the sale price of the home.

### **34. For Sale Signs**

Homeowners may place signs in their homes or on their sites which advertise their home as "for sale" or "for lease." Homeowners using outdoor signs must comply with Rule 18 on digging. In addition, the signs used must be of a type available commercially, and consistent with Rule 15 on aesthetic standards for the exterior of the home and site.

### **35. Liens**

For any overdue rent or other permissible tax, fee, or other properly disclosed charge, a community owner/operator may obtain a lien on the manufactured home and the contents of the home of the tenant who owes the debt. The owner may enforce such a lien by bringing a civil action under M.G.L. c. 255, § 25A, to have the property sold to satisfy the debt.

### **36. Replacement of Manufactured Home**

If a tenant intends to replace his or her home with one of like dimensions, he or she shall obtain the approval of the owner/operator before placing the order for the new home, and such approval shall not be unreasonably withheld or delayed. The new home and its installation and placement on the site must comply with the community's reasonable rules and any applicable federal, state or local governmental requirements. In addition, any workers hired to install the home must satisfy any applicable federal, state or local laws, such as any applicable licensing or bonding requirements.



### **37. Approval of Owner/Operator and Enforcement of Community Rules**

In any matter which requires the approval of the owner/operator, such approval may be reasonably based on the interests of either protecting the health, safety, welfare, or property of other community residents, the owner/operator, or the community property; and/or complying with standards set forth in enforceable community rules and applicable law. The owner/operator shall apply and enforce the rules in a non-discriminatory manner, free from selective enforcement. In addition, such approval shall not be unreasonably withheld or delayed. In general, such "unreasonable" delay means more than 10 days, unless another time period is provided in an enforceable rule or applicable law.

### **38. Complaints**

All complaints should be addressed to the community management. It is preferred that complaints be in writing and signed; however, if you have an emergency or have concerns about placing your complaint in writing, you can contact the owner/operator at the number provided in Rule 1 and on the disclosure form. This rule does not restrict any resident from making any complaints to any government agency or other outside group.

### **39. Amendment of Rules**

These rules are subject to addition, amendment, alteration, or deletion from time to time, within the discretion of the community owner/operator. At least 75 days before the effective date of any new rules or changes to existing rules, the owner/operator will both conspicuously post [in/at describe common area], and provide the tenant's association with a copy of all the Community Rules and any changes to the Community Rules. The owner/operator will attach to these copies of the rules or changes to the rules the attached notice entitled "Important Notice Regarding Community Rules." All rules and any change to the rules will be submitted for approval to the Attorney General's Office and Department of Housing and Community Development, at least 60 days before their effective date. Copies of such rules or changes to the rules shall be provided to all residents at least 30 days prior to their effective date.

### **40. Severability**

If any provision of these rules is held to be invalid, either on its face or as applied to residents, such a determination shall not affect the remaining rules.

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[Please note: the following rule is offered for communities that are for residents 55-or-older, or 62-or-older, and should be included near the beginning of the Community Rules.]

#### **1a. Retirement Community**

[fill in community name] is a retirement community for residents aged 55 [or 62] years of age or older. In order to qualify as a resident of this community, [choose one: all residents, or at least one member of each household] must be 55 years of age or older at the time of application. [Note: if you want your community to be a 62-or-older community, all applicants and members of their households must be 62-or-older.]

**CHAPTER 140: SECTION 32A.  
NECESSITY OF LICENSE; MOTEL DEFINED**

No person shall conduct, control, manage or operate, directly or indirectly, any recreational camp, overnight camp or cabin, motel or manufactured housing community unless he or she is the holder of a license granted under the following section. The term "motel", as used in Section 27, in this Section, and in Sections 32B to 32E, inclusive, shall be construed to mean any building or group of buildings which provide sleeping accommodations for transient motorists and which is not licensed as an inn.

**CHAPTER 140: SECTION 32B.  
GRANT, SUSPENSION OR REVOCATION OF LICENSE; EXPIRATION;  
RENEWAL; APPLICATION FEES; INSPECTION; REINSTATEMENT**

The board of health of any city or town, in each instance after a hearing, reasonable notice of which shall have been published once in a newspaper published in such city or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight camps or cabins, motels or manufactured housing communities located within such city or town, which license, unless previously suspended or revoked, shall expire on December 31 in the year of issue, but may be renewed annually upon application without such notice and hearing. Such application shall include a true and complete copy of the rules and regulations then in effect for an existing manufactured housing community or, if the application is for an original license, the rules and regulations for the proposed manufactured housing community, together with a certificate from the owner or operator of the community certifying, under the penalties of perjury, that the owner or operator has complied with Paragraph 5 of Section 32L, that the Attorney General and the Director of Housing and Community Development have been in receipt of such rules and regulations and any amendments or additions thereto for at least 60 days, and that neither the Attorney General nor the Director of Housing and Community Development has disapproved any portion of such rules and regulations. Unless otherwise established in a town-by-town meeting action and in a city-by-city council action, and in a town with no town meeting by town council action, by adoption of appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license shall be \$10, but in no event shall any such fee be greater than \$50. Such board of health shall at once notify the Department of Environmental Protection of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be insanitary, or both of such conditions, said department shall forthwith notify such board of health and such licensee to that effect by registered mail and said board shall forthwith prohibit the use of any water supply found by said department to be polluted. Unless such licensee shall, within 30 days following the giving of such notice, correct the conditions at such premises to the satisfaction of both said department and such board the license so granted shall be suspended or revoked by such board. Any license so suspended may be reinstated by such board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to said department and such board. The board of health of a city or town may adopt, and from time to time alter or amend, rules and regulations to enforce this Section in such city or town.

**CHAPTER 140: SECTION 32C**  
**EXAMINATION OF LICENSED CAMPS AND CABINS; UNSANITARY CONDITIONS**

Every board of health shall, from time to time, examine all camps, motels, manufactured housing communities and cabins licensed by it under authority of Section 32B, and if, upon such examination, such camp, motel, manufactured housing community or cabin is found to be in an unsanitary condition, said board of health may, after notice and a hearing, suspend or revoke such license.

**CHAPTER 140: SECTION 32D.**  
**RULES AND REGULATIONS; POSTING**

Whoever conducts, controls, manages or operates any camp, motel, manufactured housing community or cabin licensed under Section 32B shall post, in a conspicuous place near the entrance to every such camp, motel, manufactured housing community or cabin or in a conspicuous place at the office of the manager on the site, a copy of the rules and regulations adopted thereunder, as most recently altered or amended.

**CHAPTER 140: SECTION 32E**  
**OPERATING BUSINESS WITHOUT LICENSE**

Whoever conducts, controls, manages or operates any camp, motel or cabin subject to Sections 32A to 32C, inclusive, which is not licensed under Section 32B, shall be punished by a fine of not less than \$10 nor more than \$100.

Whoever conducts, controls, manages or operates any manufactured housing community subject to Sections 32A to 32C, inclusive, which is not licensed under Section 32A to 32B or which is not managed or operated in compliance with Sections 32A to 32S, inclusive, shall be punished by a fine of \$100 for each day in which such violation occurs or continues.

**CHAPTER 140: SECTION 32F**  
**DEFINITION; LICENSE REQUIREMENT;**  
**COPY SENT TO CITY OR TOWN CLERK; EXCEPTIONS**

Any lot or tract of land upon which three or more manufactured homes occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with manufactured homes shall be defined as a manufactured housing community. No lot or tract of land may be used for a manufactured housing community unless the owner or occupant thereof is the holder of a license granted under Section 32B. The board of health of a city or town shall, forthwith upon granting an original or renewal license under said Section 32B for a manufactured housing community, send a copy of such license to the city or town clerk.

A lot or tract of land provided by a state or county fair, agricultural and horticultural society, grange or 4-H club for the use of manufactured homes to accommodate personnel who are to participate in any fair or exhibition conducted by such organization, which fair or exhibition does not continue for a period of exceeding 10 consecutive days, or a lot or tract of

land provided by a college or university for the use of manufactured homes to accommodate students lacking dormitory facilities shall not be deemed a manufactured housing community.

**CHAPTER 140: SECTION 32G**  
**MONTHLY FEES; COLLECTION; DEPOSIT; LISTS; PAYMENT TO TREASURERS;**  
**EXEMPTION FROM TAXES; PENALTIES; REVOCATION OF LICENSE**

In addition to the license fee provided for under Section 32B, each manufactured housing community owner or operator licensed under said section shall, except as hereinafter provided, pay an additional license fee of \$6 per month or a major fraction thereof, on account of each manufactured home, occupying space within such manufactured housing community; provided, however, that in a city by vote of the city council and in a town by vote of the board of selectmen, the amount of such additional license fee may be increased to an amount not exceeding \$12 per month. Such additional license fee shall, except as hereinafter provided, be collected by such manufactured housing community operator from the owner or occupant of each manufactured home occupying space in such manufactured housing community at the end of each month or any major fraction thereof, and shall be deposited with the collector of taxes in the city or town in which such manufactured housing community is located not later than the tenth day of the month next following. The manufactured housing community operator shall, not later than the fifth day of each month, file with the licensing authority a list containing the amounts collected together with the name and address of each owner of a manufactured home occupying space during the preceding month or the tenant or subtenant of such space and designating the manufactured homes and the home owners or tenants of the space or such subtenants thereof on account of which no additional license fee is to be collected or deposited under the provisions of the last paragraph of this section. The licensing authority shall forthwith commit the list to the collector of taxes in the city or town in which the manufactured housing community is located for collection. Such collector, shall in the collection of such accounts, have all the remedies provided by Sections 35, 36 and 93 of Chapter 60, for the collection of taxes on personal property. The collector of taxes shall, once in each week or more often, pay over to the city or town treasurer all money received by him during the preceding week or lesser period on account of such license fees. Each manufactured home subject to the license fee provided for in this section shall be exempt from any property tax as provided in Clause 36 of Section 5 of Chapter 59.

The collector of taxes shall report to the licensing authority any failure to deposit with him any license fee so collected, and any failure by a manufactured housing community operator to collect any license fee provided for under this section or to deposit with the collector of taxes any license fee so collected shall be deemed cause for the revocation of any license granted under Section 32B. In addition, any willful failure to deposit with the collector of taxes a licensee fee which has been so collected shall be punished by a fine of not less than \$10 nor more than \$100 for each fee so collected and not deposited.

No additional license fee imposed by this section shall be collected by the operator of a manufactured housing community, nor shall any such fee be required to be deposited with the collector of taxes in the city or town in which such community is located, on account of a manufactured home which is deemed, by Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, not to be located or present in or to have a situs in such city or town for the purposes of taxation in respect to personal property.

**CHAPTER 140: SECTION 32H**  
**UNEQUIPPED COMMUNITIES; PLANS; COST ESTIMATES;**  
**CONDITIONAL LICENSES; SUSPENSION OR REVOCATION**

An applicant for a license under Section 32B for a manufactured housing community which has not been equipped with the buildings, structures, fixtures and facilities necessary to conduct a manufactured housing community shall file with the board a plan showing the buildings, structures, fixtures and facilities and the proposed set-up which he or she plans to have upon said premises if and when the license may issue, together with an itemized estimate of the cost of the same and, thereupon, the board, with the approval of the state department of environmental quality engineering, shall grant a manufactured housing community license upon the condition that such license shall issue upon the completion of the premises according to the plans and estimate submitted, providing that the proposed manufactured housing community will be in compliance with all applicable laws, ordinances, rules and regulations. Such conditional license may be suspended or revoked in accordance with the provisions of said Section 32B.

**CHAPTER 140: SECTION 32I**  
**REGISTER; RETENTION; INSPECTION; PENALTY**

Every holder of a license for a manufactured housing community shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name or name in ordinary use, address and registration of each owner of a manufactured home or motor vehicle renting space in such community and each tenant of such space or subtenant of which the tenant may have notified the operator, the date of entering and the date of leaving such manufactured home or motor vehicle. Such register shall be retained by the holder of the license for a period of at least one year after the date of the last entry, and shall be open to the inspection of the licensing authorities, their agents and the police. Whoever willfully and knowingly violates any provision of this section shall be punished by a fine of not less than \$5 nor more than \$100.

**CHAPTER 140: SECTION 32J**  
**SUMMARY PROCESS TO RECOVER POSSESSION;**  
**TERMINATION OF TENANCY OR LEASE**

If the manufactured home owner or person holding under him or her holds possession of a manufactured homesite in a manufactured housing community without right, after the determination of a tenancy or other estate at will or lease as provided in this section, the licensee entitled to the manufactured homesite may recover possession thereof by summary process.

Any tenancy or other estate at will or lease in a manufactured housing community, however created, and including any existing contract for occupancy of a manufactured homesite in a manufactured housing community, may be terminated by the licensee entitled to the manufactured homesite or his or her agent only for one or more of the following reasons:

- (1) nonpayment of rent;
- (2) substantial violation of any enforceable rule of the manufactured housing community;
- (3) violation of any laws or ordinances which protect the health or safety of other



manufactured housing community residents;

(4) a discontinuance in good faith by the licensee, of the use of part or all of the land owned by the licensee as a manufactured housing community subject to any existing contractual rights or agreements between the licensee and the tenants located in the manufactured housing community. No such discontinuance shall be valid for any manufactured home sold the licensee and for which a manufactured homesite was made available at the time of said sale, by the licensee, for a period of five years from the date of said sale;

(5) in the case of an existing tenancy at will, to create a new tenancy at will at an increased rent in accordance with the provisions of Section 12 of Chapter 186.

No action shall be maintained under this section unless:

(1) the manufactured housing community licensee has given at least 30 days' written notice, delivered by certified or registered mail, stating the reasons for termination and notifying the manufactured housing community resident that he or she has 15 days from the date of the mailing of the notice in which to pay the overdue rent, or cure the substantial violation of the community rules or of the law or ordinance, in order to avoid eviction;

(2) the manufactured home resident has not paid the overdue rent or cured said violations within 20 days from the day on which such written notice was received; and

(3) such action, other than for nonpayment of rent, is brought within 30 days from the date of the last alleged violation; provided, however, that an action may be maintained under this section without further notice or opportunity to cure, if the same substantial violation of rules, other than nonpayment of rent, occurs within six months from the date on which such notice was delivered.

For the purposes of this section, upon the death of a manufactured housing community tenant, such tenancy shall continue in the estate of such tenant for a period of one year from the date of death or one year from the appointment of an executor or administrator, whichever first occurs.

A resident who has been evicted from a manufactured housing community shall have 120 days after such eviction in which to sell the resident's manufactured home, subject to the terms of this paragraph. Such resident shall be responsible for the rental amount accruing during the period prior to such sale and shall maintain the manufactured home and lot during such period, on the terms and conditions of the lease or other rental agreement in effect prior to the occurrences of the default or termination of the term of occupancy which resulted in the eviction. If such manufactured home remains on the lot during such period, the owner of the manufactured housing community shall have a lien on the home to the extent such rental amount is not paid or such maintenance is not performed and to the extent of any additional past sums owed to the owner as set forth on any final eviction order issued by a court of competent jurisdiction. Such lien may be perfected by filing in the offices of the town clerk and secretary of state a uniform commercial code statement, prepared by the owner and signed by the former resident at the request of the owner following the issuance of such eviction order. If the former resident fails to sign such statement within 10 days after receipt of such statement from the owner, such resident shall not be entitled to the benefits of this paragraph for so long as such failure continues, provided that nothing in the foregoing is intended to prevent the former resident from preparing and filing such a statement. During such 120 day period, no person shall reside in such home and the former resident shall use good faith efforts to sell the home.

**CHAPTER 140: SECTION 32K**  
**APPEALS; REINSTATEMENT; REISSUANCE**

Any person aggrieved by any act, rule, order or decision of the licensing board may appeal to the superior court. After suspension or revocation, the license may be reinstated or reissued if the conditions leading to such suspension or revocation have been remedied and the community is being maintained and operated in full compliance with the law.

**CHAPTER 140: SECTION 32L**  
**REQUIREMENTS AND RESTRICTIONS APPLICABLE**  
**TO MANUFACTURED HOUSING COMMUNITIES**

The following requirements and restrictions shall apply to all manufactured housing communities:

(1) A manufactured housing community licensee may promulgate rules governing the rental or occupancy of a manufactured homesite but no such rule shall be unreasonable, unfair or unconscionable.

(2) Any rule or change in rent which does not apply uniformly to all manufactured home residents of a similar class shall create a rebuttable presumption that such rule or change in rent is unfair.

(3) A manufactured housing community owner, directly or indirectly engaged in the business of selling manufactured homes, shall not impose any conditions of rental or occupancy which restrict a resident or prospective resident in his or her choice of a manufactured home dealer unless the lot on which the home is to be placed is being leased or rented for the first time. A manufactured housing community owner shall not impose any conditions of rental or occupancy which restrict the resident in his or her choice of a seller of fuel, furnishings, goods, services or accessories connected with the rental or occupancy of a manufactured home lot, provided, however, that such seller is in compliance with applicable law and rules and regulations of the community approved by the Attorney General and the Director of Housing and Community Development or otherwise then in effect pursuant to Paragraph 5 of Section 32L of Chapter 140, including rules imposing reasonable insurance requirements. A manufactured housing community licensee may impose reasonable conditions relating to central fuel and gas meter systems in the community, provided, however, that the charges for such fuel shall not exceed the average prevailing price in the locality.

(3A) No manufactured housing community owner shall refuse to allow the transfer of a manufactured home located in said community on the ground that such manufactured housing community owner has not sold as many manufactured homes as there are sites.

(4) A manufactured housing community licensee shall not impose by any rule or condition of occupancy, any fee, charge or commission for the sale of a manufactured home located in a manufactured housing community. The licensee may, however, upon the proposed sale of such a home, contract with the manufactured home owner to sell the home for a fee not to exceed 10% of the sale price of such home.

(5) If any manufactured housing community owner promulgates, adds, deletes or amends any rule governing the rental or occupancy of a manufactured homesite in a

manufactured housing community, a new copy of all such rules shall be sent by certified mail, return receipt requested, for approval to the Attorney General and the Director of Housing and Community Development at least 60 days prior to the effective date of such promulgation, addition, deletion or amendment. A copy of such rules shall be furnished to each manufactured housing community resident in such community along with a copy of the certified mail receipts signed by a representative of the Attorney General and a representative of the Director of Housing and Community Development. Such copies shall be furnished by the manufactured housing community licensee to said residents at least 30 days prior to the effective date of such promulgations, addition, deletion or amendment. Nothing in this section shall be deemed to be an approval of such rules by the Attorney General or said director. If neither the Attorney General nor said director takes any action prior to the proposed effective date of such rules or amendment or addition thereto, such rules may be enforced by the manufactured housing community licensee until such time as the Attorney General or said director subsequently disapproves such rules or portions thereof which disapproval shall apply only prospectively, provided that nothing in this sentence shall preclude a private party from challenging such rules or portions thereof in a court of competent jurisdiction prior to or after such disapproval.

(6) Any rule or condition of occupancy which is unfair or deceptive or which does not conform to the requirements of this section shall be unenforceable.

(7) Failure to comply with the provisions of Sections 32A to 32S, inclusive, shall constitute an unfair or deceptive practice under the provisions of Paragraph (a) of Section 2 of Chapter 93A. Enforcement of compliance and actions for damages shall be in accordance with the applicable provisions of Sections 4 to 10, inclusive, of said Chapter 93A.

(7A) Any manufactured housing community licensee having given notice, pursuant to this section, of a pending change of use or discontinuance shall survey within the period of notice given to tenants, all of the manufactured housing communities within a 100-mile radius which are known to the licensee or which reasonably can be ascertained by him or her, to determine if any manufactured homesites are available or will become available during the notice period. The licensee shall prominently post at the community all of the information received regarding such available sites. Such survey shall be done at least once each year during the two-year notice period. The second survey shall be completed and posted not less than 120 days prior to the end of the notice period. The manufactured housing community owner shall pay to any tenant who is entitled to receive notice pursuant to Paragraph 8 at the tenant's election, either (a) his or her actual relocation costs or (b) the appraised value of the tenant's manufactured home. Relocation costs shall include the costs of disconnecting and moving the home to the new community selected by the resident within the 100-mile radius, reconnecting the home with all hook-ups so that it is substantially in the same condition as before the move, with any required and comparable appurtenances, and the reasonable costs of suitable lodging until the move and installation are completed. The appraised value of the manufactured home shall be the fair market value of the home and any existing appurtenances but excluding the value of the underlying land, determined by an independent appraiser agreed to by the community owner and the tenant. If the parties are unable to agree on an independent appraiser within thirty days, either may have recourse to the Director of Housing and Community Development or the director's designee, who shall appoint such appraiser within 30 days. The parties shall share the cost of the appraisal equally. In making such determination, the appraiser shall assess fair market value based on the price which a willing and able buyer intending to reside in the home would pay for the home and any existing appurtenances,

but excluding the value of the underlying land and shall assume that the home is and will continue to be located on a lot which is leased in a duly licensed manufactured housing community, with all hook-ups and existing appurtenances in place for use and occupancy by the resident. In addition, if the home is then actually located on a lot rented to the homeowner by the same person or a predecessor or affiliate of such person or predecessor who sold the home in question within the past 10 years to the homeowner or a predecessor of such owner, then the appraisal also shall take into account the value to the tenant, if any, which is attributable to a below-market contract rental for the balance of the 10 years from the date of sale at the rate at which the lot is leased before delivery of the relocation notice, as increased in accordance with the lease and after its expiration by an annual factor not to exceed the increase in the consumer price index set forth in this paragraph for the 12-month period immediately preceding delivery of the relocation notice. Otherwise no value shall be attributed to actual existing below-market or above-market rental rates. This paragraph shall not be construed to authorize an early termination of an otherwise enforceable lease with a fixed term or to restrict a tenant's rights at law or in equity with respect thereto. Payment of the appraised value or of the estimated relocation costs, as the case may be, shall be made to the tenant no later than the tenant's departure from the manufactured housing community with adjustments made for the total actual relocation costs upon completion of relocation. Any manufactured housing community owner shall provide a rental agreement to each tenant who is entitled to receive notice pursuant to this section. Such agreement shall begin on the date of the issuance of the notice of discontinuance. The provisions of such rental agreement shall not alter in any manner the tenancy arrangement existing between the community owner and tenant prior to issuance of the notice of discontinuance, except with respect to the amount of annual rent, which may be increased by an amount not to exceed the increase in the Consumer Price Index for Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics, for the calendar year immediately preceding the date upon which such rental agreement is commenced plus the proportionate amount of any documented increase in real estate taxes or other municipal fee or charge; provided, however, that the total amount of such increase shall not exceed ten percent of the annual rent charged in the immediately preceding year; provided, however, that if there is a rent control ordinance in existence such increase shall be subject to the provisions of said ordinance and in no event shall any owner whose notice of discontinuance or change of use is not given in good faith be entitled to any increase in rent otherwise permitted hereunder; and, provided further, that once a tenant has received a notice of discontinuance, his or her rent shall not be increased unless a year has passed from the date of the last increase imposed upon such tenant.

(8) A manufactured housing community owner shall give at least 15 days written notice, delivered by certified or registered mail, to each manufactured housing community tenant, that the owner will be appearing before a governmental board, commission or body to request a permit for a good faith change of use or discontinuance of the manufactured housing community. No change of use or discontinuance shall be approved or otherwise be effective unless the owner has demonstrated that such change of use or discontinuance is in good faith and the burden of proving such good faith shall be on the owner. Upon a change of use or discontinuance approved by a governmental board, commission, or body, or with respect to a change or discontinuance that requires no local governmental permit or permits, the manufactured housing community owner shall give to each manufactured housing community tenant at least two years written notice, delivered by certified or registered mail, prior to the manufactured housing community owner's determination that a change of use or discontinuance will occur. The owner shall disclose and describe in the

notice the nature of the change of use or discontinuance and the reasons therefor.

(9) The manufactured housing community owner shall give each prospective tenant written notice prior to the inception of tenancy that the owner is requesting a change of use or discontinuance before local governmental bodies, or that a change of use or discontinuance has been granted, or that a change of use or discontinuance which requires no governmental approval will occur, noting the effective date of change of use or discontinuance.

**CHAPTER 140: SECTION 32M**  
**SALE OR PROPOSED SALE OF MANUFACTURED HOME**  
**LOCATED IN LICENSED COMMUNITY**

Upon the sale or proposed sale of a manufactured home located on a lot in a manufactured housing community and which is not owned by the manufactured housing community licensee, the prospective purchaser and members of his household may not be refused entrance if they meet the current rules of the community. Failure to comply with the provisions of this section shall constitute an unfair or deceptive trade practice under the provisions of Section 2a of Chapter 93A.

**CHAPTER 140: SECTION 32N**  
**REPRISALS FOR REPORT OF VIOLATIONS**

Any manufactured housing community licensee or his or her agent who threatens to or takes reprisals against any manufactured housing community resident or group of residents for reporting a violation or suspected violation of Section 32L or Section 32M or any applicable building or health code to the board of health of a city or town in which the manufactured housing community is located, the Department of Public Health, the Department of the Attorney General or any other appropriate government agency, shall be liable for damages which shall not be less than one month's rent or more than five months' rent, or the actual damages sustained by the manufactured housing community resident or group of residents, whichever is greater, and the costs of the court action brought for said damages including reasonable attorney's fees. The receipt of any notice of termination of tenancy by such manufactured housing community resident or group of residents, except for nonpayment of rent, within six months after making such a report of a violation or a suspected violation, shall create a rebuttable presumption that such notice is a reprisal against the manufactured housing community resident or group of residents for making such report and said presumption may be pleaded in defense to any eviction proceeding against such manufactured housing community resident or group of residents brought within a year after such report.

**CHAPTER 140: SECTION 32O**  
**ACTIONS TO ENFORCE SEC. 32L OR 32M; MAILING COPIES OF ORDERS**

In any action to enforce the provisions of Section 32L or Section 32M, the clerk of the court shall mail copies of any judgment, decree, permanent injunction or order of the court upon the entry thereof to the Attorney General and to the board of health of the city or town in which the manufactured housing community of the licensee is located.



**CHAPTER 140: SECTION 32P**  
**TERMS AND CONDITIONS OF OCCUPANCY;**  
**DISCLOSURE IN WRITING; REQUIRED NOTICE**

All terms and conditions of occupancy must be fully disclosed in writing by the manufactured housing community owner to any prospective manufactured housing community resident at a reasonable time prior to the rental or occupancy of a manufactured home lot. Said disclosure shall include, but shall not be limited to, the amount of rent, an itemized list of any charges or fees, the names and addresses of all the owners of the manufactured housing community, and the rules and regulations governing the use of the manufactured home lot and community. Said writing shall contain a bona fide, good faith offer to each new tenant and to each person renewing or extending any existing arrangement or agreement for occupancy of premises in a manufactured housing community for a rental agreement with a term of five years or, where a valid notice of discontinuance is in effect at the time of such offer the balance of the period remaining before the effective date of the discontinuance, at fair market rental rates subject to any applicable rent control restrictions, as an alternative to any other proposed term lengths. Such writing shall be signed by the manufactured housing community owner and contain the following notice printed verbatim in a clear and conspicuous manner.

**IMPORTANT NOTICE REQUIRED BY LAW**

The rules set forth below govern the terms of your lease or occupancy with this manufactured housing community. If these rules are changed in any way, the addition, deletion or amendment must be delivered to you, along with a copy of the certified mail receipts indicating that such change has been submitted to the Attorney General and the Director of Housing and Community Development and either a copy of the approvals thereof by the Attorney General and said director or a certificate signed by the owner stating that neither the Attorney General nor said director has taken any action with respect thereto within the period set forth in Paragraph (5) of Section 32L of Chapter 140. This notification must be furnished to you at least 30 days before the change goes into effect. The law requires all of these rules and regulations to be fair and reasonable or said rules and regulations cannot be enforced.

You may continue to stay in the community as long as you pay rent and abide by the rules and regulations. You may only be evicted for nonpayment of rent, violation of law or for substantial violation of the rules and regulations of the community. In addition, no eviction proceedings may be commenced against you until you have received notice by certified mail of the reason for the eviction proceeding and you have been given 15 days from the date of the notice in which to pay the overdue rent or to cease and desist from any substantial violation of the rules and regulations of the community; provided, however, that only one notice of substantial violation of the rules and regulations of the community is required to be sent to you during any six month period. If a second or additional violation occurs, except for nonpayment of rent, within six months from the date of the first notice, then eviction proceedings may be commenced against you immediately.

You may not be evicted for reporting any violations of law or health and building codes to boards of health, the Attorney General, or any other appropriate government agency. Receipt of notice of termination of tenancy by you, except for nonpayment of rent, within six months after your making such a report shall create a rebuttable presumption that such notice is a reprisal and may be pleaded by you in defense to any eviction proceeding brought within one

year.

Any group of more than 50% of the tenants residing in the manufactured housing community has certain rights under Section 32R of Chapter 140, to purchase the community in the event the owner intends to accept an offer to sell or lease the community in the future. If you wish to receive further information about the financial terms of such a possible purchase, you may so notify the owner at any time by signing the attached Request for Information and returning it to the owner in person or by certified mail. Such request for information shall not obligate you to participate in any purchase of the community. For a proposed sale or lease by the owner which will result in a change of use or a discontinuance of the community you will receive information at least two years before the change becomes effective. Otherwise, Requests for Information or similar notices from more than 50% of the tenants residing in the community must be on file with the owner before the owner is required to give you information concerning the financial terms of a sale or lease.

This law is enforceable by the Consumer Protection Division of the Attorney General's Office.

**REQUEST FOR INFORMATION**

The undersigned, a tenant in the manufactured housing community known as \_\_\_\_\_ and located at \_\_\_\_\_, Massachusetts desires to receive information concerning any proposed sale or lease of the community as required under Section 32R of Chapter 140 of the General Laws. I understand that this request shall not obligate me to participate in any purchase or lease of the community, but is only a request for information. This notice is being delivered to the owner or owner's manager either in person or by certified mail on \_\_\_\_\_(date).

(Tenant - Name)

**CHAPTER 140: SECTION 32Q**  
**MANUFACTURED HOME DEFINED**

As used in Sections 32A to 32P, inclusive, the words "manufactured home" shall mean a structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

**CHAPTER 140: SECTION 32R**  
**SALE OR LEASE OF MANUFACTURED HOUSING COMMUNITY;**  
**HOME OWNERS' ASSOCIATION; NOTICE; RIGHT OF FIRST REFUSAL**

(a) A manufactured housing community owner shall give notice to each resident of the manufactured housing community of any intention to sell or lease all or part of the land on which the community is located for any purpose. Such notice shall be mailed by certified mail, with a simultaneous copy to the Attorney General, the Director of Housing and Community Development, and the local board of health, within 14 days after the date on which any advertisement, listing, or public notice is first made that the community is for sale

or lease and, in any event, at least 45 days before the sale or lease occurs; provided, that such notice shall also include notice of tenants rights under this section.

(b) Before a manufactured housing community may be sold or leased for any purpose that would result in a change of use or discontinuance, the owner shall notify each resident of the community, with a simultaneous copy to the Attorney General, the Director of Housing and Community Development, and the local board of health, by certified mail of any bona fide offer for such a sale or lease that the owner intends to accept. Before any other sale or lease other than leases of single lots to individual residents, the owner shall give each resident such a notice of the offer only if more than 50% of the tenants residing in such community or an incorporated home owners' association or group of tenants representing more than 50% of the tenants residing in such community notifies the manufactured housing community owner or operator, in writing, that such persons desire to receive information relating to the proposed sale or lease. Any notice of the offer required to be given under this subsection shall include the price, calculated as a single lump sum amount which reflects the present value of any installment payments offered and of any promissory notes offered in lieu of cash payment or, in the case of an offer to rent, the capitalized value of the annual rent and the terms and conditions of the offer.

(c) A group or association of residents representing at least 51% of the manufactured home owners residing in the community which are entitled to notice under Paragraph (b) shall have the right to purchase, in the case of a third-party bona fide offer to purchase that the owner intends to accept, or to lease in the case of a third-party bona fide offer to lease that the owner intends to accept, the said community for purposes of continuing such use thereof, provided it (1) submits to the owner reasonable evidence that the residents of at least 51% of the occupied homes in the community have approved the purchase of the community by such group or association, (2) submits to the owner a proposed purchase and sale agreement or lease agreement on substantially equivalent terms and conditions within 45 days of receipt of notice of the offer made under subsection (b) of this Section, (3) obtains a binding commitment for any necessary financing or guarantees within an additional 90 days after execution of the purchase and sale agreement or lease, and (4) closes on such purchase or lease within an additional 90 days after the end of the 90-day period under Clause (3).

No owner shall unreasonably refuse to enter into, or unreasonably delay the execution or closing on a purchase and sale or lease agreement with residents who have made a bona fide offer to meet the price and substantially equivalent terms and conditions of an offer for which notice is required to be given pursuant to Paragraph (b). Failure of the residents to submit such a purchase and sale agreement or lease within the first 45-day period, to obtain a binding commitment for financing within the additional 90-day period or to close on the purchase or lease within the second 90-day period, shall serve to terminate the rights of such residents to purchase or lease the manufactured housing community. The time periods herein provided may be extended by agreement. Nothing herein shall be construed to require an owner to provide financing to such residents except to the extent such financing would be provided to the third party offeror in the case of a sale or lease for a use which would result in a change of use or discontinuance or to prohibit an owner from requiring such residents who are offering to lease a community to provide a security deposit, not to exceed the lesser of one-year's rent or the amount which would have been required to be provided by the third-party offeror, to be kept in escrow for such purposes during the term of the lease. A group or association of residents which has the right to purchase hereunder, at its election, may assign its purchase right hereunder to the city, town, housing authority,

or agency of the Commonwealth for the purpose of continuing the use of the manufactured housing community.

(d) The right of first refusal created herein shall inure to the residents for the time periods hereinbefore provided, beginning on the date of notice to the residents under Paragraph (b). The effective period for such right of first refusal shall obtain separately for each substantially different bona fide offer to purchase or lease the community, and for each offer substantially equivalent to an offer made more than three months prior to the later offer; provided however, that in the case of a substantially equivalent offer made by a prospective buyer who has previously made an offer for which notice to residents was required by said Paragraph (b), the right of first refusal shall obtain only if such subsequent offer is made more than six months after the earlier offer. The right of first refusal shall not apply with respect to any offer received by the owner for which a notice is not required pursuant to said Paragraph (b). No right of first refusal shall apply to a government taking by eminent domain or negotiated purchase, a forced sale pursuant to a foreclosure by an unrelated third-party, transfer by gift, devise or operation of law, or a sale to a person who would be an heir at law if there were to be a death intestate of a manufactured housing community owner.

(e) In any instance where the residents of the manufactured housing community are not the successful purchaser or lessee of such manufactured housing community, the seller or lessor of such community shall provide evidence of compliance with this section by filing an affidavit of compliance with the Attorney General, the Director of Housing and Community Development, the local board of health, and the official records of the county where the property is located within seven days of the sale or lease of the community. Any lease of five years or less shall specifically require that such lessee shall not discontinue or change the use of the manufactured housing community during the term of such lease.

(f) In any instance of a sale or lease for which a notice from the owner of the manufactured housing community is not required to be, and is not, given under Paragraph (b) and within one year of such sale or lease the new owner or lessee delivers a notice of change of use or discontinuance under Paragraph (8) of Section 32L, such notice shall provide each tenant in the manufactured housing community with at least four years prior notice of the effective date of the proposed change of use or discontinuance.

#### **CHAPTER 140: SECTION 32S** **RULES AND REGULATIONS**

The Attorney General from time to time shall promulgate such rules and regulations as he deems necessary for the interpretation, implementation, administration and enforcement of Sections 32A to 32S, inclusive. Such authority shall be in addition to, and not in derogation of, the Attorney General's authority to promulgate rules and regulations under Section 2 of Chapter 93A with respect to manufactured housing communities.





**940 CMR 10.00: MANUFACTURED HOUSING COMMUNITY REGULATIONS**

**Section**

- 10.01: Definitions
- 10.02: Unfair or Deceptive Practices: General
- 10.03: Terms and Conditions of Occupancy
- 10.04: Manufactured Housing Community Rules
- 10.05: Goods and Services
- 10.06: Sale of a Manufactured Home by Operator
- 10.07: Sale of a Manufactured Home by Homeowner
- 10.08: Termination of Tenancy and Eviction
- 10.09: Sale or Lease of a Manufactured Housing Community
- 10.10: Discontinuance of a Manufactured Housing Community
- 10.11: Licensing and Enforcement
- 10.12: Cooperatives
- 10.13: Severability
- 10.14: Enforcement Date

940 CMR 10.00 defines certain unfair acts or practices, but is not intended to describe all types of activities prohibited by M.G.L. c. 93A, § 2(a). 940 CMR 10.00 does not legitimize acts that are not specifically prohibited by 940 CMR 10.00. 940 CMR 10.00 is designed to supplement state and federal law, and to supplant any irreconcilably conflicting local bylaws or ordinances. References to statutes and other regulations shall include amendments thereto from time to time.

**10.01: Definitions**

**Act:** shall mean M.G.L. c. 140, §§ 32A through 32S, as amended and supplemented from time to time.

**Basic Utilities:** shall mean those utility services listed in 940 CMR 10.05(4).

**Clear and Conspicuous Type:** shall mean printed typeface no smaller than 12-point print.

**Common Areas and Facilities:** shall mean all land areas and facilities in a manufactured housing community, except manufactured homes, manufactured homesites, and areas and facilities that are specified in the occupancy agreement or the written community rules as not available for common use by residents. Common areas and facilities shall include, without limitation, community roads, common parking areas, common storage areas, common walkways, community social, recreational and operational facilities, and utilities other than those located on a manufactured homesite.

**Cooperative:** shall mean a manufactured housing community where the land underlying the community is cooperatively owned by at least 51% of the community manufactured homeowners.

**Fair market rental rates:** shall mean the rental rates that would be charged in the market between a willing owner of a manufactured housing community and a willing prospective tenant seeking initial residency in the community, each acting freely and without compulsion or

collusion, for the manufactured homesite in question. This definition is not intended to replace or supersede any applicable rent control laws and, with respect to manufactured housing communities that are subject to rent control, "fair market rental rates" shall mean the rates established pursuant to such laws.

**Federal Fair Housing Act:** shall mean 42 U.S.C. §§ 3600 et seq. and regulations promulgated thereunder.

**Guest:** shall mean a person who resides in a home for fewer than 90 days in any 12 month period.

**Licensee:** shall mean an operator who holds a current manufactured housing community license from the local board of health under M.G.L. c. 140, § 32B.

**Manufactured Home:** is defined in M.G.L. c. 140, § 32Q.

**Manufactured Home Dealer:** shall mean a person engaged in the business of selling manufactured homes to retail customers.

**Manufactured Homesite:** shall mean the land within a manufactured housing community on which a manufactured home and appurtenances are or may be located and over which a tenant has possessory or other rights or interests.

**Manufactured Housing Community:** shall have the meaning assigned in M.G.L. c. 140, § 32F.

**Non-Discriminatory Rent Increase:** shall mean proposed rental increases, to the extent permitted by occupancy agreements, that are apportioned equally among similarly situated tenants in the community.

**Occupancy Agreement:** shall mean any written agreement, including but not limited to a lease, a license, or a tenancy at will, and any amendment, renewal or extension thereof, for use or occupancy of a manufactured homesite, common areas, facilities, and other appurtenant rights.

**Operator:** shall mean a person who directly or indirectly owns, conducts, controls, manages, or operates any manufactured housing community, and his or her agents or employees.

**Person:** shall mean any individual or entity described in M.G.L. c. 4, § 7, twenty-third.

**Personal Motor Vehicle:** shall mean any automobile, van, truck, motorcycle, or motor bicycle as defined under M.G.L. c. 90, § 1, that is for personal use by a resident, whether or not it is also used to conduct a trade or business, except for vehicles with two or more axles with a gross weight exceeding 8,600 pounds.

**Qualifying Retirement Community:** shall mean a manufactured housing community that qualifies for exemption from the age discrimination prohibitions contained in M.G.L. c. 151B and the familial status discrimination prohibitions contained in the Federal Fair Housing Act because it meets either the definition of "55-or-over-housing" or "62-or-over-housing" as provided for in the Federal Fair Housing Act.

**Reasonable Insurance Requirement:** shall mean an amount and type of required insurance coverage that is reasonably correlated to the nature, scale and probability of the potential loss and does not exceed the then-prevailing average amount or type of coverage that is customarily required of vendors of the particular goods or services being supplied in the area where the manufactured housing community is located.

**Resident:** shall mean any person who normally resides in a manufactured home in a manufactured housing community, regardless of whether or not he or she has an occupancy agreement with the operator.

**Rule:** shall mean any written or unwritten rule, regulation, or policy imposed by an operator that governs procedures, conduct, or standards within the manufactured housing community, including without limitation procedures for the screening and approval of prospective residents.

**Secretary:** shall mean the Secretary of the Executive Office for Communities and Development.

**Tenant:** shall mean a person who has an occupancy agreement or oral tenancy agreement with an operator for the use and occupancy of a manufactured homesite, common areas, facilities, and other appurtenant rights.

**Tenants' Association:** shall mean any association of which the operator has notice and which represents at least 51% of the tenants in a manufactured housing community.

### **10.02: Unfair or Deceptive Acts or Practices: General**

It shall be an unfair or deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for an operator:

- (1) to impose, through any rule or occupancy agreement, any unreasonable, unfair, or unconscionable restriction governing the rental or occupancy of a manufactured homesite;
- (2) to impose any rule, or term or condition of occupancy, or to otherwise take action, that conflicts with any applicable provision of 940 CMR 10.00, M.G.L. c. 140, §§ 32A through 32S, or other applicable law. Any such rule, term, or condition shall be void and unenforceable;
- (3) to fail to comply with any applicable provision of M.G.L. c. 140, §§ 32A through 32S, 940 CMR 10.00, or any other local, state or federal statute, rule or regulation which generally or specifically provides protection to or for residents or prospective residents of manufactured housing communities;
- (4) to enforce any rule that has not been approved by the Attorney General and the Secretary, unless the rule is conditionally in effect pursuant to M.G.L. c. 140, 32L(5) and 940 CMR 10.04(3);
- (5) to fail or refuse to inform a tenant or prospective tenant in writing of the fact that the community has rules or regulations, and to fail or refuse to furnish a copy of all such rules, printed in clear and conspicuous type, to the tenant or prospective tenant;
- (6) to fail or refuse to inform a tenant in writing that the Attorney General has promulgated regulations relating to the conduct of manufactured housing communities, and to fail to make available for resident inspection a copy of 940 CMR 10.00, either at the office of the manager on the site, or where the rules and regulations are otherwise posted pursuant to M.G.L. c. 140, § 32D;
- (7) to impose, where the community is under the jurisdiction of a duly promulgated rent control statute, ordinance, bylaw, or regulation, any rent increase or additional fee, or to attempt to evict any tenant, except as permitted pursuant to such rent control law;
- (8) to increase a tenant's rent or other fee, or change the terms or conditions of a tenancy, notwithstanding any provision in 940 CMR 10.00 that would permit the imposition of a fee or restriction in the absence of a controlling occupancy agreement, except as permitted:
  - (a) under the occupancy agreement,
  - (b) under M.G.L. c. 186, § 12 with respect to a tenancy at will, or
  - (c) in accordance with any applicable rent control law;
- (9) to sell a home, or to approve a prospective resident's application for residency in conjunction with the sale of a home within the community, without disclosing that the operator intends to issue, or has actually issued, a notice of discontinuance to residents; or

(10) to fail to make the disclosures required under 940 CMR 10.03(4) when offering a new tenancy to any prospective or existing tenant.

### **10.03: Terms and Conditions of Occupancy**

(1) Unfair or Deceptive Acts or Practices: General. It shall be an unfair or deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for an operator:

(a) to restrict the number of occupants of a manufactured home beyond any applicable restriction in any valid local, state or federal law . A guest will presumptively not increase the number of persons deemed normally living in the home.

(b) to impose any occupancy restriction based upon race, religious creed, color, national origin, sex, sexual orientation, age, ancestry, marital status, familial status, veteran status or membership in the armed forces, blindness, hearing impairment, or other handicap, or based upon any other ground prohibited by M.G.L. c. 151B or the Federal Fair Housing Act, unless such a restriction is explicitly exempted from the scope of those laws;

(c) to discriminate in the terms, conditions or privileges of the rental of a manufactured homesite, or in the provision of services or facilities, upon a ground prohibited by either M.G.L. c. 151B or the Federal Fair Housing Act;

(d) to impose any restriction based upon age unless the manufactured housing community is a qualifying retirement community;

(e) to advertise or in any way hold out a manufactured housing community as a "retirement" or "adults only" community, or like terms, if the community is not a qualifying retirement community;

(f) to rent or lease a manufactured homesite, or to offer a new tenancy after terminating a prior tenancy under M.G.L. c. 186, § 12, without offering a written five-year lease as required under M.G.L. c. 140, § 32P; or

(g) to require or retain a security deposit or any other amount in violation of M.G.L. c. 186, § 15B.

(2) Unfair or Deceptive Acts or Practices: Fees and Charges. It shall be an unfair or deceptive act or practice in violation of M.G.L. c. 93A for an operator:

(a) to charge any entrance or exit fee for assuming or leaving occupancy of the manufactured housing community;

(b) to charge a fee for a service unless such fee is permitted under M.G.L. c. 140, §§ 32A through 32S or 940 CMR 10.00, and is either listed in the tenant's occupancy agreement or is charged for services requested by the resident and actually rendered by the operator;

(c) to charge a fee for costs associated with the processing of any residency application, including but not limited to any credit verification costs;

(d) to charge a fee for a guest, except as allowed in 940 CMR 10.03(2)(h);

(e) to charge a per capita fee for an additional household occupant, unless such fee is objectively based on actual additional expenses incurred by the operator as a result of the increased occupancy, and the operator raises the rent only to the extent needed to conform to the rent paid by other residents with the same number of adult occupants in their household;

(f) to charge a fee for maintenance work on the manufactured home or homesite,

except as permitted under 940 CMR 10.04(5)(d) or as otherwise mutually agreed by the operator and the resident;

(g) to charge a pet fee unless such fee is reasonably related to the actual cost of providing a pet service or facility in the community, and further provided that no such fee shall be charged for a guide dog or other service animal assisting a disabled resident or to a pet that is kept exclusively within a manufactured home;

(h) to charge a fee for the non-exclusive use of common areas and facilities by any resident or guest, unless such fee is a user fee for recreational or storage areas and reasonably relates to the cost of providing and maintaining such areas and facilities. Nothing herein shall preclude the imposition of reasonable fees for use of such areas and facilities for a private social or recreational function hosted by a resident;

(i) to impose any interest or other monetary penalty for late rent, except pursuant to an occupancy agreement and in an amount reasonably intended to compensate the operator for the delay in payment, and provided that no such interest or penalty may be charged until payment is 30 days overdue;

(j) to impose in any occupancy agreement a provision allowing for recovery of the operator's attorneys' fees and expenses incurred as the result of any legal action taken against the tenant for violation of the occupancy agreement, unless the agreement also provides that the tenant may recover his or her attorneys' fees and expenses if the tenant prevails in any such legal action;

(k) to seek to recover a fee or charge that is not separately listed in the occupancy agreement;

(l) to seek to recover, through lump sum charges, the costs of capital improvements to the community or any homesite to the extent such costs exceed \$ 100 in the aggregate; provided that the amortized costs of such capital improvements may (if specifically listed in the occupancy agreement) be recovered from tenants over the useful life of such improvements through community-wide nondiscriminatory rent increases;

(m) to seek to recover costs or expenses resulting from any legal obligation of the operator to upgrade or repair sewer, water, gas, or electrical systems to meet minimum standards required by law, unless such standards first become effective after a tenant has initially assumed residency in a manufactured housing community and unless such costs are recovered as capital improvements in accordance with 940 CMR 10.03(2)(l);

(n) to require any resident to pay for the removal or replacement of oil storage tanks on a homesite to meet environmental concerns or risks not caused by the negligence of the resident, provided that the operator may recover such costs as capital improvements in accordance with 940 CMR 10.03(2)(l);

(o) to charge a new fee, during the term of an occupancy agreement, for a service or facility that had previously been supplied or maintained by the operator without a separately listed charge in the occupancy agreement; or

(p) to charge any fees exceeding those authorized under any applicable rent control law.

(3) General Terms and Conditions. Any violation of any applicable local, state or federal statute, regulation or ordinance governing landlord-tenant relations (including, but not limited to, M.G.L. c. 186, §§ 12 through 21, M.G.L. c. 111, § 127A, 105 CMR 410.000, local ordinances and rent control laws) with regard to manufactured housing shall constitute a violation of M.G.L. c. 93A.



(4) Initial Disclosure and Lease Offer. All terms and conditions of occupancy shall be disclosed in writing to any prospective resident, including without limitation, an existing tenant whose prior occupancy agreement is being amended, renewed, or extended, any tenant at will whose terms of tenancy are being changed under M.G.L. c. 186, § 12, or any approved subtenant. Such disclosure shall be signed by the operator and delivered at least 72 hours prior to either the signing of the occupancy agreement or the commencement of the new occupancy, whichever comes first. Disclosure shall include, but shall not be limited to:

- (a) the amount of rent;
- (b) an itemized list of any usual charges or fees, including, upon request of any prospective resident, a statement of the charges and fees assessed over the preceding 12 months and estimated for the ensuing 12 months, and a description of the circumstances under which any special charges or fees may be imposed for extraordinary work, services, or repairs to the extent otherwise permitted under M.G.L. c. 140, §§ 32A through 32S and 940 CMR 10.00;
- (c) the proposed term(s) of occupancy, as provided under 940 CMR 10.03(5);
- (d) the names and addresses of all the owners and operators of the community, and if a corporation, partnership, trust or other entity, the principal beneficial owners thereof;
- (e) all community rules;
- (f) the size and location of the manufactured homesite, including a disclosure of any known and materially adverse conditions or defects;
- (g) a description of all common areas and facilities and any restrictions on the use thereof;
- (h) the statutory notice required under M.G.L. c. 140, § 32P.

(5) Minimum Term of Occupancy. The written disclosure required by 940 CMR 10.03(4) shall contain a bona fide, good faith offer to enter into an occupancy agreement with a term of five years at fair market rental rates, subject to any applicable rent control restrictions, as an alternative to any other proposed term lengths which may include periods shorter or longer than five years. Where a valid notice of discontinuance under M.G.L. c. 140, § 32L and 940 CMR 10.10 is then in effect, such offer shall be for the period remaining before the scheduled effective date of the discontinuance.

The requirement in 940 CMR 10.00 regarding an operator's responsibility to offer a fair market five-year lease does not create a new right of action, beyond those available at common law and/or by statute, by which tenants can challenge the fair market rent of such leases after executing the leases. However, any fraud, material misrepresentation, or other unfair or deceptive act by operators during negotiations with prospective tenants regarding the fair market value shall be a violation of M.G.L. c. 93A.

(6) Credit Verification. An operator shall not, in requiring a prospective tenant to complete any credit application, require the prospective tenant to supply more than three credit references; all credit verifications shall be carried out through recognized credit verification sources and in accordance with applicable law.

(7) Sublease and Assignment. An operator shall not unreasonably restrict leasing of a tenant's manufactured home or subleasing or assignment of a tenant's interest in a manufactured homesite. In addition, all restrictions imposed by the operator on tenant subleasing or assignment shall also apply to any direct leasing of homes by the operator. Moreover, an operator shall not restrict a tenant's ability to lease his or her manufactured

home and sublease the underlying manufactured homesite after a discontinuance notice has been issued.

(8) Operator's Right of Entry.

(a) No occupancy agreement shall contain a provision that an operator may enter a manufactured home. Moreover, an operator shall not enter a manufactured home without the prior written consent of the tenant, provided on a separate document which addresses only the issue of consent and no other topic. Such consent may be revoked at any time, without penalty or consequence to the tenant of any sort.

(b) No occupancy agreement shall contain a provision that an operator may enter onto a manufactured homesite prior to the termination of such agreement, except to inspect the site, to make repairs thereto subject to 940 CMR 10.04(5)(d), or to show the site to a prospective tenant, purchaser or mortgage or its agents. An operator may enter onto a manufactured homesite as permitted in M.G.L. c. 186, § 15B(l)(a)(i),(ii) or (iii). Any entry pursuant to 940 CMR 10.03(8)(b) shall require reasonable prior notice from the operator, except in the case of an emergency that creates an imminent threat to the safety or property of the tenant or others, and shall not interfere unreasonably with the tenant's right to use and enjoyment of the manufactured home or the manufactured homesite.

(9) Resident's Insurance and Indemnification.

(a) An operator shall not require a tenant to maintain insurance unless insurance is available at reasonable rates.

(b) Any rule or provision of an occupancy agreement which imposes liability on a resident without regard to fault, or which violates M.G.L. c. 186, § 15B, or which releases or limits the operator's liability arising under law or resulting from an act or omission of the operator, or which provides for indemnification of an operator for any such liability or costs connected therewith, shall be void and unenforceable. The foregoing shall not affect any statutory liability of either the operator or the tenant.

(10) Notice of Change in Terms and Conditions of Occupancy. An operator shall give each resident, and any tenants' association written notice of any permitted increase in rent or charges, any permitted reduction in services or utilities, or any other permitted change in the terms and conditions of tenancy at least 30 days before the effective date of the change, or with such longer notice period as the occupancy agreement or M.G.L. c. 186, § 12 may require. An operator shall give notice of any change or proposed change in the community rules in accordance with 940 CMR 10.04.

**10.04: Manufactured Housing Community Rules**

(1) Unfair or Deceptive Acts or Practices: General. It shall be an unfair or deceptive act or practice in violation of M.G.L. c. 93A for any operator:

(a) to impose or enforce any rule that either:

1. is not in writing;
2. has been disapproved by the Attorney General or the Secretary;
3. is not otherwise enforceable under M.G.L. c. 140, § 32L(5);
4. is inconsistent with any provision of M.G.L. c. 140, §§ 32A through 32S or 940 CMR 10.00; or
5. with respect to matters not addressed herein, is unreasonable, unfair, unconscionable or deceptive.

- (b) to fail to post the rules then in effect as required by M.G.L. c. 140, § 32D; or
- (c) to make any material false representation as to any material matter related to the giving of notices or the receipt of approvals related to community rules.

(2) General Content of Rules.

(a) A licensee may adopt written rules to promote the convenience, quiet enjoyment, safety or welfare of the residents in the community, to preserve the operator's property from abusive use, to preserve or enhance the quality and appearance of the community, or to allocate services and facilities in a fair and appropriate manner, all subject to M.G.L. c. 140, §§ 32A through 32S and 940 CMR 10.00.

(b) All rules shall apply to and be enforced against residents in a nondiscriminatory manner free from selective enforcement, shall be sufficiently explicit to fairly inform residents of the prohibitions, directions, or limitations contained therein, and shall be reasonably related to a permissible purpose.

(c) An operator shall include in any community rules and regulations an emergency telephone number to be called when the community is left unattended by a manager.

(3) Approval Procedure.

(a) If an operator promulgates, adds, deletes, or amends any rule, new copies of all such proposed rules shall be conspicuously posted in a common area of the community and concurrently provided to any tenants' association, at least 75 days prior to the effective date of such rules. Attached to the aforementioned copies shall be a notice stating in clear and conspicuous type that:

1. the operator is seeking to change the rules of the community;
2. the operator intends to apply the changes to all community residents;
3. the changes may have a material effect on living conditions in the community;
4. the Attorney General and the Secretary have the authority to approve the changes;
5. any resident who wishes to comment on the changes should write to the Office of the Attorney General; and
6. residents may also comment to the operator regarding the proposed changes, if the residents choose to do so.

At least 60 days prior to the effective date of the rules, the rules shall be sent for approval to the Attorney General and the Secretary as set forth in M.G.L. c. 140, § 32L(5). A copy of such rules, including any amendments or deletions thereto after their initial submission, with copies of the certified mail receipts signed by a representative of the Attorney General and a representative of the Secretary, also shall be sent or delivered to each resident in the affected manufactured housing community at least 30 days prior to their effective date, as set forth in M.G.L. c. 140, § 32L(5).

(b) If the notice provisions of M.G.L. c. 140, § 32L(5) have been complied with and neither the Attorney General nor the Secretary disapproves of such rules or amendment or addition thereto prior to the proposed effective date thereof, such rules may be enforced by the licensee from and after the proposed effective date until such time as the Attorney General or the Secretary disapproves such rules or portions thereof. Any such disapproval shall apply prospectively, but shall not preclude a private party from challenging such rules or portions thereof in a court of competent jurisdiction prior to or

after such disapproval. Approval or disapproval of the Attorney General or the Secretary shall be deemed given only when explicitly so stated and shall not be implied or inferred in the absence of an explicit statement.

(c) Each annual application to the board of health for an original or renewal license to operate a manufactured housing community shall include a true and complete copy of the rules then in effect, in accordance with M.G.L. 140, § 32B and 940 CMR 10.11(2).

(4) Guests. An operator shall not unreasonably restrict a resident from having a guest or require any such guest to register. An operator shall not unreasonably restrict the right of a guest to use any community facility or service.

(5) Exterior Appearance and Improvements.

(a) A licensee may promulgate reasonable rules that require residents to keep neat and in good repair the exterior of a manufactured home and the manufactured homesite.

(b) A licensee may require residents to conform a home's exterior to reasonable aesthetic standards that are applied consistently throughout the community (with the exception of those homes where conformance with such standards is not practicable or possible because the home, if built before June 15, 1976, does not comply with federal standards for construction of manufactured housing that became effective on that date and are administered by the U.S. Department of Housing and Urban Development) so long as such aesthetic standards are disclosed prior to the tenant's entry into the community. New or revised standards may be proposed in rules submitted for approval to the Attorney General and the Secretary in accordance with 940 CMR 10.04(3).

(c) An operator shall not restrict a tenant from removing any improvements made by the tenant to the manufactured homesite during his or her tenancy, such as plants, vines, edgings, shrubs, gravel, stone or other additions made for the benefit of his or her tenancy, except that, by agreement of both parties the licensee may retain the improvements by paying the tenant for their actual cost. A licensee may require the tenant to repair any damage to the homesite caused by the removal of any such improvements.

(d) An operator shall not perform or charge a resident for maintenance work on the resident's manufactured home or homesite, unless requested by the resident, or unless:

1. the exterior does not comply with a reasonable rule as described in 940 CMR 10.04(5)(a) and (b);
2. the resident's occupancy agreement allows the operator's proposed actions; and
3. the resident first receives written notice from the operator that specified work is required, and that the operator will perform the work or cause it to be performed at the expense of the resident no sooner than 10 days from receipt of the notice, if the resident does not do the work; and
4. the notice specifies the amount that will be charged.

(e) An operator shall not misrepresent governmental health, safety and use requirements nor seek to exercise enforcement powers thereunder not granted by law.

(f) An operator shall not require any resident to make permanent improvements to the manufactured homesite, or the manufactured housing community or any of its facilities, nor assess any separate fee or charge for any such permanent improvements made by the operator, except as specifically provided for in 940 CMR 10.00.

(6) Interior Appearance and Improvements. An operator shall not impose any restriction

on the interior appearance or equipment of a manufactured home, nor shall an operator require a resident to make interior improvements. Residents shall be responsible for the interior's compliance with applicable governmental health, safety and other regulations, and shall only be subject to enforcement by the appropriate governmental authorities.

(7) Motor Vehicles. An operator shall not prohibit any resident from parking up to two personal motor vehicle at or on a manufactured homesite. A licensee may otherwise reasonably restrict parking, maintenance and storage of motorized vehicles, trailers, and boats. Where there is no provision made in a community for guest parking, an operator shall not place unreasonable restrictions on guest parking at a resident's homesite or adjacent roadways.

(8) Non-Residential Use of a Manufactured Home. An operator shall not restrict ancillary non residential activities within a residential manufactured home or homesite, including but not limited to home offices, child care, and yard sales, if such activities comply with local zoning and other laws, and do not substantially disrupt the residential character of the manufactured housing community. A licensee may impose reasonable restrictions on the times and manner in which yard sales are conducted, so long as such restrictions are included in the community's rules.

(9) Residents' Meetings and Communications.

(a) An operator shall not prohibit or unreasonably restrict free movement, speech, assembly and association within a manufactured housing community.

(b) An operator shall not restrict or prohibit residents from meeting peacefully for any lawful purpose nor restrict or prohibit the presence of any public official, candidate for public office, or representative of a manufactured homeowners' organization. Meetings may be held in a common area or facility not otherwise in use or in a resident's home.

(c) An operator shall not prohibit, or require fees or deposits for, any meetings held in a common area or facility by the community's residents to discuss the community's affairs, so long as the meetings are held when the facility is not otherwise in use. An operator shall not prohibit the distribution of notices of such meetings.

(d) An operator shall not restrict peaceful canvassing and petitioning of residents, including without limitation the distribution or circulation of oral or printed information, for any noncommercial, political or public purpose.

(e) An operator shall not prohibit any resident from soliciting membership in any resident association, including but not limited to oral or written requests for membership or the payment of dues.

(10) Pets. A licensee may reasonably restrict pets that go outside a manufactured home. An operator shall not regulate pets that live solely within a manufactured home, except for requirements that any such pets not disturb the peace and quiet of other residents.

### **10.05: Goods and Services**

(1) Choice of Seller. An operator shall not restrict a resident in his or her choice of a seller of fuel, furnishings, goods, services or accessories connected with the rental or occupancy of a manufactured homesite:

(a) so long as such seller is in compliance with:

1. applicable law and;
2. applicable rules, if any, of the manufactured housing community approved by the



Attorney General and the Secretary or otherwise in effect pursuant to M.G.L. c. 140, § 32L(5), including any such rules and regulations imposing reasonable insurance requirements, as defined under 940 CMR 10.01; and

(b) unless such seller has repeatedly failed to meet prevailing industry standards, as evidenced by complaints to the Attorney General's office, the Better Business Bureau or regulatory agencies having jurisdiction over the provision of such goods or services. Where goods or services are offered by an operator to residents, the operator also shall inform residents in writing of their right to obtain such goods and services from other providers.

(2) Central Fuel Systems. If fuel is supplied to manufactured homesites in a manufactured housing community through a central fuel and gas meter system, a licensee may impose reasonable conditions related to such system, including conditions limiting a resident's ability to choose a fuel dealer. The operator shall provide such services at no charge to the resident, pursuant to 105 CMR 410.354 and 410.355.

(3) Kickbacks. No operator shall charge, demand or receive, directly or indirectly, any fee or amount, or any free good or service, from any provider of goods or services to residents.

(4) Basic Utilities.

(a) An operator shall make available, or cause to be made available, the following to each manufactured homesite:

1. Electrical service supplying each manufactured home with sufficient amperage to meet the reasonable needs of the residents. Should the amperage be determined to be inadequate for such needs, it shall be corrected, without charge to the residents, so that it meets the amperage requirements of 527 CMR 12.00, the Massachusetts Electrical Code; and

2. Natural gas connection to any provider of natural gas at the location of the manufactured housing community, provided such connection is economically reasonable.

(b) An operator shall supply and pay for the following to each manufactured homesite:

1. a supply of potable water sufficient in quantity and pressure to meet the ordinary needs of the residents, connected with a public water supply system, or with any other source that the board of health has determined does not endanger the health of any potential user; and

2. a sanitary sewage disposal system connected to the public sewerage system, provided, that if, because of distance or ground conditions, connection to a public sewerage system is not practicable, the operator shall provide, and shall maintain in a sanitary condition, a means of sewage disposal that complies with 310 CMR 15.00; and

3. electricity, natural gas, or other heating fuel, except for that which is metered through a meter which serves only the individual manufactured home and the occupancy agreement provides for payment by the occupant,

(c) A licensee may recover expenses incurred under 940 CMR 10.05(4)(b) 1., 2. and 3. through non-discriminatory rent increases, except as otherwise limited by 940 CMR 10.00.

(d) The basic utilities described in 940 CMR 10.05(4)(a) and (b), as applicable, shall be installed to the point of connection at each manufactured home and maintained in

good repair and operating condition by the operator without charge to residents, except as damage thereto is caused by the negligent act or omission or willful misconduct of a resident. All such installation and maintenance shall be in accordance with applicable laws, codes, and professional standards.

(e) Residents shall not be required to pay charges for hook-up and use of basic utilities described in 940 CMR 10.05(4)(a) and (b), pursuant to 105 CMR 410.354 and 410.355, except that use charges may be imposed and determined by metering at a manufactured homesite by a utility or utilities.

(f) An operator shall not willfully or intentionally interrupt any utility service furnished under 940 CMR 10.05(4)(a) or (b), and shall be liable for any such interruption pursuant to M.G.L. c. 186, § 14.

(5) Access to Cable Television Service. An operator shall not restrict a resident's access to cable television connection to the licensed municipal provider(s) of cable television in the surrounding community in violation of M.G.L. c. 166A, § 22. An operator shall not unreasonably restrict a tenant's access to satellite transmission services.

(6) No Required Utilities or Services. An operator shall not require a resident to use a basic utility such as natural gas, or other services such as cable television, notwithstanding the fact that the operator is required to make such items available or accessible.

(7) Maintenance of Common Areas and Facilities. An operator shall maintain all common areas clean and in good repair, free from debris, rubbish and garbage and in compliance with applicable health and safety laws. All common areas and facilities shall be generally available for use by any resident, and any scheduled daily periods during which such facilities and common areas are to be closed shall be conspicuously posted.

(8) Collection of Garbage and Rubbish.

(a) An operator shall be responsible for the final collection or ultimate disposal or incineration of residents' garbage and rubbish by means of:

1. the regular municipal collection system; or
2. any other collection system approved by the board of health.

(b) A licensee may require tenants, without charge, to comply with recycling rules imposed by the municipality on the collection company. Any costs borne by the operator in complying with local recycling laws may be recovered through non-discriminatory rent increases implemented in conformity with 940 CMR 10.00.

(9) Maintenance of Roadways. An operator shall maintain and keep in good repair all community roadways that are part of the common areas and facilities, including but not limited to ensuring that roadways are reasonably free of debris and potholes. An operator shall provide necessary snow plowing for all community roadways. Roadways shall be sufficient to provide access for residential use and emergency vehicles, and shall be open to residents, guests, service providers, school buses (except where narrow roadways will not accommodate such access, in which case a central bus stop shall be provided), vans servicing the elderly or the handicapped, and others generally entitled to use public ways.

(10) Maintenance of Manufactured Homesites and Common Areas Free From Hazards. An operator shall provide for the removal or repair of all naturally occurring hazardous conditions on a manufactured homesite or common areas that are determined by an appropriate governmental authority to pose a risk to the safety of others or their homes, including but not limited to the removal of hazardous trees or tree limbs.

### **10.06: Sale of a Manufactured Home by an Operator**

(1) General. An operator shall not make any false, deceptive, or misleading representation to induce a person to purchase a manufactured home or lease a manufactured homesite, or make any representation inconsistent with or contrary to the written occupancy agreement.

(2) Restrictions on Choice of Dealer. A licensee may restrict a tenant or prospective tenant in the choice of a manufactured home dealer for the purchase or lease of a manufactured home only if the manufactured homesite on which the home is to be placed is being leased or rented, whether by such operator or any predecessor, as a manufactured homesite for the first time. A licensee may reasonably restrict any tenant in the choice of certain brands of manufactured homes for purchase or lease throughout the period of occupancy for the purpose of maintaining a pre-established aesthetic standard in the manufactured housing community. Any such restriction on brands shall be listed in the community rules. A restriction will be presumptively unfair if it substantially limits a tenant's choice of manufactured home dealers. An operator shall not otherwise restrict a resident or prospective resident in the choice of a manufactured home dealer, nor require any person desiring to purchase a previously owned home in a community to first inquire about availability of homes at the community management or sales office, nor otherwise interfere with the inspection, purchasing, or lease of a tenant-owned home or a home being sold by another manufactured home dealer or broker.

(3) Cancellation of Purchase Contract. Any purchaser of a manufactured home located in a manufactured housing community, from an operator or a manufactured home dealer, may rescind the contract for the purchase of the home after execution thereof if:

(a) at the time of executing the contract, the seller or the seller's agent misrepresented, or failed to disclose, to the purchaser or the purchaser's agent that the home could not remain in the community and the purchaser is subsequently not permitted to keep the home in the community; or

(b) the purchaser is rejected for residency in the community.

### **10.07: Sale of Manufactured Home by Homeowner**

(1) General.

(a) An operator shall not limit a manufactured homeowner's right to sell or encumber a manufactured home, or require a manufactured homeowner to remove a home from the manufactured community because of the sale of the home.

(b) An operator shall not condition its approval of residency of a purchaser on payment by the selling homeowner of monies lawfully withheld under M.G.L. c. 239, § 8A. An operator shall not charge or collect from a succeeding manufactured homeowner or resident any rent, taxes or other charges relating to a prior owner's ownership of the home or occupancy of the manufactured homesite.

(c) An operator shall not make any false, deceptive, or misleading representation to discourage a potential buyer from purchasing a home from a homeowner in the community. Where the operator discloses that a notice of discontinuance has been issued to community residents, the operator must also disclose the existence of and nature of any legal challenge to the issuance of the notice, and any related judicial rulings that have attacked the validity of the notice.

(d) A licensee may have a lien upon a manufactured home as provided in M.G.L. c. 140, §

32J, upon a manufactured home and the contents thereof, as provided in M.G.L. c. 255, § 25A, or if otherwise authorized by a court of law, but it shall be an unfair or deceptive practice to fail to disclose to a prospective purchaser of a manufactured home the existence of a lien placed by or on behalf of an operator on such home.

(e) A licensee may require a homeowner to provide notice of an intended sale at least 30 days prior to its execution.

(2) Residency Application by Purchaser. Upon the sale or proposed sale of a manufactured home by the homeowner, the operator shall consent to entrance by the purchaser and members of the purchaser's household if the purchaser meets the currently enforceable rules of the manufactured housing community and provides reasonable evidence of financial ability to pay the rent and other charges associated with the tenancy in question. An operator shall not reject the application or prohibit the sale because the applicant owns another home in the community or leases another site in the community. Any application for residency shall be deemed approved if the operator fails, within 10 days of receipt of the application, to notify the applicant of its rejection of the application and the reasons for the rejection. If such application is not timely rejected, then the purchaser shall have the right to assume the obligations thereafter arising under any continuing occupancy agreement of a current resident then in effect or, if such occupancy agreement has expired, to enter into a new occupancy agreement on terms satisfactory to the operator and purchaser and not inconsistent with 940 CMR 10.00.

(3) Broker. No operator or manufactured home dealer shall:

(a) require a resident to designate the operator, the manufactured home dealer, or any designee thereof, as broker or agent for any sale, sublease or lease assignment; or

(b) restrict the manufactured homeowner in undertaking such a transaction directly or through a broker or agent of the homeowner's choosing.

(4) Fees or Commissions. No operator, manufactured home dealer, or agent shall impose any fee (which is to be passed, directly or indirectly, to the operator) as a condition to the sale, lease or other transaction involving a manufactured home unless such person has entered into a separate written contract for, and rendered, brokerage services in connection with such transaction and the fee or charge is reasonable in relation to the services provided. No commission or fee paid to an operator for the sale of a manufactured home shall exceed 10% of the sale price.

(5) "For Sale" Signs. An operator shall not prohibit a homeowner from placing on their manufactured home or manufactured homesite commercially reasonable "for sale" or "for lease" signs. An operator may not require that any such signs display the community logo or contain information directing an interested buyer to the community sales or management office, except pursuant to any exclusive brokerage contract the homeowner enters into with the operator for the sale of the home.

(6) Condition of Home on Sale. An operator shall not reject the application for residency of a prospective purchaser of a tenant's home:

(a) because of the age of the home; and

(b) because the home, if built before June 15, 1976, does not comply with federal standards for construction of manufactured housing that became effective on that date and are administered by the U.S. Department of Housing and Urban Development; or

(c) because the external condition of the home or site does not comply with community rules, unless before the home was offered for sale the operator specified in writing the

area(s) of noncompliance with community rules and gave the homeowner a reasonable opportunity to bring the home into compliance and the homeowner failed to do so.

(7) Operator's Right of First Refusal. A right of first refusal granted to an operator or manufactured home dealer or designee thereof shall be enforceable only if:

- (a) it is based on the full amount of the bona fide third-party offer;
- (b) the operator must accept or reject the offer within 15 days;
- (c) the sale will take place on the terms set forth in the third-party offer;
- (d) if the operator fails to timely accept the offer and the third-party offer is not consummated, the selling homeowner shall not be required to submit a subsequent third-party offer made within one year and unless a price is materially reduced; and
- (e) the right of first refusal shall not apply to any transfer to members of the homeowner's family, including, but not limited to, step-relatives and domestic partners.

### **10.08: Termination of Tenancy and Eviction**

(1) General.

(a) A licensee may terminate an occupancy agreement or tenancy of any kind only for a reason specified as a basis for termination in M.G.L. c. 140, § 32J. An operator shall not terminate an occupancy agreement or tenancy for any other reason, including without limitation:

- 1. a. because of the age of home;
- b. because the home, if built before June 15, 1976, does not comply with federal standards of construction of manufactured housing that became effective on that date and are administered by the U.S. Department of Housing and Urban Development; or
- c. because the external condition of the home or site does not comply with community rules, unless the operator has specified in writing the area(s) of non-compliance and has given the homeowner a reasonable opportunity to bring the home into compliance; and
- 2. in retaliation for the matters set forth in 940 CMR 10.08(4).

(b) No action by an operator to terminate an occupancy agreement or tenancy, or to recover possession of the manufactured homesite, for any of the reasons set forth in M.G.L. c. 140, § 32J, shall be maintained unless the operator has provided the resident with a written default notice and the opportunity to cure as set forth in M.G.L. c. 140, § 32J. The default notice required thereunder shall be effective only if it sets forth the reason(s) relied upon for the termination with specific facts, where applicable and available, alleging the date(s), place, witnesses, and circumstances concerning the reason(s) for the default. Reference to 940 CMR 10.00 or to M.G.L. c. 140, § 32J alone is not sufficient for compliance with 940 CMR 10.08(1)(b).

(c) Where an operator is required to obtain a certificate of eviction or similar permit from a local rent control board prior to evicting a resident, the operator shall not apply for such certificate or permit except for a reason specified as a basis for termination under M.G.L. c. 140, § 32J. Any certificate of eviction obtained by an operator that is issued on any other basis shall have no legal effect in any subsequent summary process action.

(d) An operator shall not refuse to renew an occupancy agreement or tenancy for the



reason that the operator wishes to make the manufactured homesite available to a person purchasing a manufactured home from the operator.

(e) After a termination of an occupancy agreement or tenancy in compliance with M.G.L. c. 140, §§ 32A through 32S and 940 CMR 10.00, the licensee may seek to recover possession of the manufactured homesite by summary process under M.G.L. c. 239, and the resident shall be entitled to assert all rights and defenses available under applicable law.

(2) Substantial Violation of Rules.

(a) An operator shall not declare a default, terminate an occupancy agreement or tenancy, or seek to recover possession of the manufactured homesite for an alleged violation of a community rule that either has been disapproved by the Attorney General or the Secretary, is inconsistent with M.G.L. c. 140, §§ 32A through 32S or 940 CMR 10.00, or is not otherwise enforceable under M.G.L. c. 140, § 32L(5).

(b) No violation of a rule shall be deemed "substantial" for purposes of M.G.L. c. 140, § 32J unless the violation by the resident endangers the health or safety of the other residents of the community, their guests, or the operator, unreasonably interferes with the use and quiet enjoyment by other residents of their homes, homesites, or the common areas or facilities, or damages or poses a substantial risk of damage to the property or equipment of the operator.

(c) Nothing herein shall be deemed to restrict a licensee's right to seek injunctive relief from a court of competent jurisdiction with respect to any violation of enforceable rules, whether or not "substantial."

(3) Violation of Law or Ordinance Protecting Health or Safety.

(a) An operator shall not declare a default, terminate an occupancy agreement, or seek to recover possession of the manufactured homesite for an alleged violation of any noncriminal and/or misdemeanor health and safety law or ordinance, unless the resident fails to comply with such law or ordinance within a reasonable period after receiving notice of such noncompliance from the governmental agency charged with enforcing same.

(b) No termination or eviction action shall be undertaken by an operator because of a violation by a resident of a criminal statute protecting the health and safety of other residents if the person convicted of the offense has permanently vacated and does not subsequently reoccupy the manufactured homesite.

(4) Retaliation.

(a) An operator shall not terminate a tenancy or refuse to renew a tenancy because a resident has reported to any governmental authority a violation or suspected violation by the operator of any law, regulation, or ordinance, including without limitation any provision of any building or health code, M.G.L. c. 140, §§ 32A through 32S or 940 CMR 10.00, or filed suit alleging such violation(s).

(b) An operator shall not terminate a tenancy or refuse to renew a tenancy for the reason that the tenant is a member of a tenants' association or sought to establish or amend any rent control statute or ordinance.

(c) An operator shall not terminate a tenancy or refuse to renew a tenancy for the reason that the tenant is asserting a right under 940 CMR 10.00, M.G.L. c. 140, §§ 32A through 32S or any other applicable landlord-tenant law.

(d) The receipt by a resident of any notice of default or termination, except for nonpayment of rent, within six months after the resident has taken any of the actions described in 940 CMR 10.08(4)(a) through (c), shall create a rebuttable presumption that such notice is a reprisal against the resident for taking such action, and such presumption may be pleaded in defense to any eviction proceeding against such resident brought within one year after the resident took such action.

(e) Nothing herein shall limit a resident's right to recover damages, costs and reasonable attorneys' fees for an operator's reprisals or threatened reprisals as set forth in M.G.L. c. 140, § 32N.

(5) 120-Day Post-Eviction Period.

(a) After eviction of a resident, and for so long as the homeowner has the right to sell the manufactured home within the 120-day period provided under M.G.L. c. 140, § 32J, an operator shall not terminate or otherwise interfere with utility hookups, or cause the manufactured home to be moved from its site.

(b) During the 120-day post-eviction period, an operator may not unreasonably restrict the homeowner from placing "for sale" signs on the home or site in accordance with 940 CMR 10.07(5), or from showing the home to prospective purchasers or their agents, including but not limited to home inspectors.

(c) The purchase of a manufactured home by an operator, or any affiliate of the operator, from an evicted homeowner for a price substantially below the fair market value of the home, as determined under M.G.L. c. 140, § 32L(7)(A), shall create a rebuttable presumption that such transaction was unfair or deceptive.

**10.09: Sale or Lease of a Manufactured Housing Community**

(1) Unfair or Deceptive Acts or Practices: General. It shall be an unfair or deceptive act or practice in violation of M.G.L. c. 93A for an operator to fail:

(a) to give notice of any intention to sell or lease all or part of the manufactured housing community, as required under M.G.L. c. 140, § 32R(a);

(b) to give notice of an offer for such a sale or lease that the operator intends to accept, to the extent required under M.G.L. c. 140, § 32R(b); or

(c) to unreasonably refuse to enter into, or to unreasonably delay the execution or closing on, a purchase and sale agreement or lease with residents who have exercised their right of first refusal to purchase or lease the community under M.G.L. c. 140, § 32R(c) by making a bona fide offer as set forth therein.

(2) Notice of Proposed Sale or Lease. A bona fide offer by a third-party that the operator intends to accept for purposes of M.G.L. c. 140, § 32R(b) shall include any offer, except under any of the circumstances described in the last sentence of M.G.L. c. 140, § 32R(d).

(3) Residents' Right of First Refusal to Purchase or Lease. For purposes of determining residents' rights to purchase and lease under M.G.L. c. 140, § 32R(c):

(a) "reasonable evidence that the residents of at least 51% of the occupied homes in the community have approved the purchase of the community by such group or association" shall include, without limitation, a document signed by such persons; and

(b) "a binding commitment for any necessary financing or guarantees" shall include, without limitation, a contract subject to customary and commercially reasonable pre closing and closing conditions.

### **10.10: Discontinuance of a Manufactured Housing Community**

- (1) Good Faith. There shall be a rebuttable presumption that a change of use or a discontinuance of a manufactured housing community is not in “good faith” where:
- (a) a discontinuance notice is issued within six months after a group of tenants, either collectively or in the aggregate, has reported a violation of M.G.L. c. 140, §§ 32L or 32M or any applicable building or health code to the board of health of a city or town in which the community is located, the Department of Public Health, the Department of the Attorney General or any other appropriate government agency;
  - (b) a discontinuance notice is issued within six months after the tenants of a manufactured housing community seek to obtain, or do actually obtain, rent control in their manufactured housing community;
  - (c) a discontinuance notice is issued within six months after a manufactured housing community owner has failed to obtain a rent increase that he or she sought from a local rent control board;
  - (d) credible evidence is produced that the manufactured housing community owner’s stated reasons in the discontinuance notice for discontinuing the community are demonstrably false;
  - (e) a notice of discontinuance is issued prior to issuance of any permit or approval required under local law;
  - (f) the discontinuance notice contains no planned alternative use for the land upon which the manufactured housing community sits or where the current zoning of the land does not allow for any stated planned alternative use; or
  - (g) a manufactured housing community owner fails to subsequently conduct and distribute the results of the annual survey required by M.G.L. c. 140, § 32L(7)(A).
- (2) Required Notices Relating to Discontinuance.
- (a) Notices of hearings and other appearances before governmental bodies shall be given to all tenants as set forth in M.G.L. c. 140, § 32L(8) and to all prospective tenants as set forth in M.G.L. c. 140, § 32L(9).
  - (b) An operator shall give notice of the change of use or discontinuance to any prospective tenant before he or she initially occupies, or enters into an occupancy agreement for, the manufactured homesite.
- (3) Relocation or Purchase.
- (a) A resident is not entitled to a relocation payment or the purchase of a manufactured home by the operator under M.G.L. c. 140, § 32L(7)(A) if, after receiving actual notice of the issuance of a licensee’s notice of change of use or discontinuance, the resident purchased a manufactured home already situated in the manufactured housing community or moved a manufactured home into the manufactured housing community.
  - (b) A resident shall deliver to the manufactured housing community owner good title to the manufactured home, free and clear of all liens and encumbrances, at the time of payment of the purchase price therefore under M.G.L. c. 140, § 32L(7)(A).
  - (c) Completion of relocation under M.G.L. c. 140, § 32L(7)(A) shall be deemed to occur upon actual physical relocation of the manufactured home, and adjustments on account thereof shall be paid within 14 days after receipt by the operator from the former resident of reasonable evidence of the relocation costs incurred.

### **10.11: Licensing and Enforcement**

(1) License. Each owner of land upon which three or more manufactured homes are occupied for dwelling purposes shall apply to the Board of Health with jurisdiction over the manufactured housing community for an annual manufactured housing community license pursuant to M.G.L. c. 140, § 32B.

(2) Rules. An operator who is applying for a new license or renewing a license shall annually submit to the Board of Health a copy of the rules currently in effect in the community with the license application and shall keep such rules on file for inspection by residents and other interested parties. Such rules shall be accompanied by a written certification from the prospective licensee, under the pains and penalties of perjury, that such prospective licensee has complied with M.G.L. c. 140, § 32L(5) with respect to submission to and approval, or absence of disapproval by the Secretary and the Attorney General of such rules.

(3) Fines. A board of health that determines that an operator has failed to comply with M.G.L. c. 140, § 32E may issue notices of violation and assess fines for such violations pursuant to M.G.L. c. 140, § 32E. 940 CMR 10.11 shall not be construed in derogation of the authority of any other appropriate enforcement agency or court from enforcing M.G.L. c. 140, § 32E or any other part of M.G.L. c. 140, §§ 32A through 32S.

(4) Revoked License. Where a board of health has revoked or suspended a community license pursuant to M.G.L. c. 140, § 32B, the operator of the community shall still be subject to all the provisions of M.G.L. c. 140, §§ 32A through 32S and 940 CMR 10.00.

### **10.12: Cooperatives**

940 CMR 10.00 shall not apply to any disputes or transactions between a cooperative and its shareholders. However, any unfair act or practice, regardless of its relation to 940 CMR 10.00, is a violation of M.G.L. c. 93A.

### **10.13: Severability**

If any provision of 940 CMR 10.00 or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of 940 CMR 10.00 and the applicability of such provision to any other person or circumstance shall not be affected thereby.

### **10.14: Enforcement Date**

940 CMR 10.00 shall be enforced as of September 23, 1996. The regulations herein relating to notices of change of use or of discontinuance shall apply to notices pending on or issued after September 23, 1996. 940 CMR 10.00 shall also apply to the enforcement of manufactured housing community rules after September 23, 1996, regardless of the date such rules were first adopted.





**Important Notice Regarding Community Rules**

Please take notice that [the owner/operator] wants to [choose 1: issue/add/delete or amend] the community rules. In particular, we intend to [choose 1: issue/add/delete or amend] [rule(s) number \_\_\_\_\_]. The proposed new rules are attached. These new rules would apply to all community residents, and may have a material effect on living conditions in the community. The Attorney General and the Director of the Department of Housing and Community Development have the authority to approve these new rules. Any resident who wishes to provide comment on the proposed rules should write to the Consumer Protection Division, Office of the Attorney General, One Ashburton Place, 18th Floor., Boston, MA 02108. Residents may also submit their comments to [the owner/operator's name and address].

[Please note that this notice complies with the requirements of 940 C.M.R. 10.04(3).]



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