

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

### 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). Additionally, an owner/operator who is applying for a new license or renewing a license with the community's local Board of Health must include in the license application a copy of the rules currently in effect in the community as well as a sworn affidavit that the owner/operator has complied with M.G.L. c. 140, § 32L(5) with respect to submission to and approval, or absence of disapproval, those rules from DHCD and the AGO. 940 C.M.R. 10.11(2). 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 B.
  - 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.

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- 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. A Word version of the Model Rules can be downloaded from the AGO's Website at [mass.gov/ago/mhu](http://mass.gov/ago/mhu).

**h. Submitting "Redlined" Rules.** To facilitate and expedite rule review, owner/operators must use the Word version template of the Model Rules available on the AGO Website at [mass.gov/ago/mhu](http://mass.gov/ago/mhu) and submit a redlined version to reflect any proposed changes from the Model Rules along with a "clean" version of their proposed rules. Similarly, if an owner/operator is submitting revised rules that were not approved or is seeking to amend community rules that were previously approved, owner/operators must submit a redlined version of their proposed rules to reflect any proposed changes along with a clean version of the proposed rules. Owner/operators must submit their clean and redlined proposed rules electronically either in Word or ".pdf" format by including them on a disk or "jump drive" by certified mail included with their hard copy version of the rules, or, emailing the electronic versions to [mhu@massmail.state.ma.us](mailto:mhu@massmail.state.ma.us) after submitting their hard copies by certified mail.

Instructions to Owner/Operators for Submitting Rules to The Attorney General's Office and DHCD are included in Appendix B and on the AGO's Website [mass.gov/ago/mhu](http://mass.gov/ago/mhu).

**i. 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.

**j. 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).