

Disclosures and Occupancy Agreement

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, fees, and fines (if you request it, you must also be given a statement of charges, fees, and fines 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.³⁰ 940 C.M.R. 10.03(4).

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:
 - 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.
 - 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).
 - 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).³¹

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- 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.
 - 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 fine, or change any other terms or conditions of your tenancy (e.g. switching your heating fuel from oil to natural gas or vice versa) 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).