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CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILING CAPTION: Clarify notice of sales and closures requirements for manufactured and marina dwellings and update terminology.

EFFECTIVE DATE: 08/28/2023

AGENCY APPROVED DATE: 08/28/2023

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RULES:
813-065-0100, 813-065-0102, 813-065-0103, 813-065-0104, 813-065-0110, 813-065-0120, 813-065-0130, 813-065-0140, 813-065-0150, 813-065-0200, 813-065-0210, 813-065-0220, 813-065-0230, 813-065-0240

AMEND: 813-065-0100

RULE TITLE: Purpose

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: Clarification about purpose of the rules.

RULE TEXT:
The purpose of OAR 813 Division 65 is to carry out the statutory requirements outlined in ORS 90.643 through ORS 90.850 for notices and payments that facility owner(s) of facilities, as defined by ORS 90.100 to mean manufactured dwelling parks or marinas, must give to tenants and to the Department when a facility is closed, placed or considered for sale, sold, or the deed to the facility is transferred. Unless the context indicates otherwise or the term is otherwise defined, all terms in this Division are defined in OAR 813-005-0005 and ORS 90.100.

STATUTORY/OTHER AUTHORITY: ORS 90.650, 446.543

STATUTES/OTHER IMPLEMENTED: ORS 90.645, 90.650, 446.543

ADOPT: 813-065-0102

RULE TITLE: Notification and Delivery of Notification

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: clarification about notices and simplification of language

RULE TEXT:

(1) All notices provided in this division must be provided in writing and delivered by first class mail.

(2) Notification to the Department shall be delivered to the Manufactured Housing and Marina Community Resource Center ("MMCRC"). The MMCRC address can be found on the MMCRC website.

(3) The notice shall be considered served three days after the date that the notice was mailed.

STATUTORY/OTHER AUTHORITY: ORS 90.643 – ORS 90.850

STATUTES/OTHER IMPLEMENTED: ORS 90.650

ADOPT: 813-065-0103

RULE TITLE: Required Notification of Intent to Sell Manufactured Home Park or Marina Community

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: Clarifying the process for notifications and adding an expiration date for notification if a sale is not completed.

RULE TEXT:

(1) Facility owner(s) and landlord's agent(s) shall deliver written notification of their intent to place the facility for sale no less than 15 calendar days prior to publicly marketing the facility for sale or 10 calendar days from the date the facility owner(s) or landlord's agent(s) has received an offer to purchase the facility, whichever comes first, to:

(a) All tenants and facility owner(s) of manufactured homes or floating homes within the facility;

(b) The tenant’s committee, if a tenant’s committee exists, and with which the facility owner(s) or landlord's agent(s) has formally met within the calendar year immediately preceding delivery of the notice;

(c) The Department's MMCRC.

(2) Notification under this rule shall include all required information listed in ORS 90.842; and

(a) Contact information for the Department's MMCRC, including complete copies of, or web address links to OAR 813 Divisions 27 and 65; and

(b) Property information that would customarily be included in property marketing materials, real estate listings, or provided to prospective purchasers and shall include:

(A) Asking price for the facility, or offer price if the facility owner(s) has received an offer to purchase that the facility owner(s) intends to consider; and

(B) Property information available via public record such as zoning, lot size, publicly recorded and published facility owner(s) information, property tax, and liens; and

(C) Contact information for all individuals or agencies that represent the facility owner(s) or landlord agent(s) in marketing or facilitating the sale of the facility such as a real estate broker or attorney.

(3) The Department shall provide within five (5) calendar days of receipt of notification of a facility owner(s) or landlord's agent(s)' intent to sell or receipt of an offer to purchase:

(a) Notification via first class mail to the facility owner(s) or landlord's agent(s) at an address or email address provided to the Department confirming receipt of their notice to sell; and

(b) Notification via first class mail of the facility status or listing for sale to the tenants’ committee if one exists at the time of the delivery of the notification from the facility owner(s) or landlord's agent(s); and

(c) Publication of the facility status or listing for sale on the MMCRC website and information regarding resources to assist tenants in the purchase of the facility shall be kept current and accessible to the public by the Department on the MMCRC website and provided upon request via email or first-class mail.

(4) Notices provided by the facility owner(s) or landlord's agent(s) are valid for one calendar year from the date that the facility owner(s) or landlord's agent(s) provided notice of intent to sell to tenants, tenant committees, and the Department.

(a) If the facility is not sold within one calendar year, the facility owner(s) and landlord's agent(s) are required to provide tenants, tenant committees, and the Department with an updated notice that meets the requirements of this Division.

(b) Updated notification must also be provided to any tenant who was not provided the initial notification.

STATUTORY/OTHER AUTHORITY: ORS 90.650, ORS 446.403

STATUTES/OTHER IMPLEMENTED: ORS 90.650, ORS 446.403, ORS 90.645

ADOPT: 813-065-0104

RULE TITLE: Required Notification Conveyance/Transfer of Facility Deed

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: clarifies rules around notifications and timing

RULE TEXT:

Facility owner(s) or landlord's agent(s) must deliver both written notification of any sale or other transfer or exchange of deed of a facility, per ORS 90.849, to the Department, and written notification of any sale or other transfer or exchange of deed of a facility, per ORS 90.849, to tenants and tenant committees including the required information under ORS 90.849 within 14 calendar days after conveyance, transfer, or the exchange of deed has been officially recorded.

STATUTORY/OTHER AUTHORITY: ORS 90.650, ORS 446.543

STATUTES/OTHER IMPLEMENTED: ORS 446.543, ORS 90.645

AMEND: 813-065-0110

RULE TITLE: Facility Closure Notice When Closure Not Required by Eminent Domain or Government Order

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: Update the term landlord to facility owner(s) or landlord's agent(s) within the rule.

RULE TEXT:

(1) When a manufactured dwelling facility, or a portion of the facility that includes the space for a manufactured dwelling, is to be closed under ORS 90.645(1) or (2), the facility owner(s) or landlord's agent(s) of the facility shall provide at least the following information to the tenants of the facility or the affected portion of the facility, as applicable:

(a) The information required by ORS 90.645(3);

(b) The facility owner(s) or landlord's agent(s)' address for contact and communications;

(c) The actions and activities the facility owner(s) or landlord's agent(s) plans to take in the facility closure that may affect the facility tenants;

(d) The tenant's rights under ORS 90.645 for a 365-day closure notice including:

(A) A statement of the amount that the facility owner(s) or landlord's agent(s) is required to pay the tenant for each space for which a rental agreement is terminated; this amount is based on the Consumer Price Index, which is recalculated annually to reflect inflation;

(B) A notice that the facility owner(s) or landlord's agent(s) is not required to make the payment under ORS 90.645(1) unless the tenant gives the facility owner(s) or landlord's agent(s) not less than 30 days' and not more than 60 days' written notice of the date within the 365-day period on which the tenant will cease tenancy;

(C) A statement that if the manufactured dwelling is abandoned, the facility owner(s) or landlord's agent(s) may condition the payment upon waiver by the tenant under ORS 90.645(5) and may not charge the tenant to store, sell or dispose of the abandoned manufactured dwelling; and

(D) A statement of the rights of the facility owner(s) or landlord's agent(s) and the tenant under ORS 90.645(6), (7) and (8);

(e) The tenant's rights under ORS 90.645 for a 180-day closure notice, if applicable, including:

(A) A statement of the amount that the facility owner(s) or landlord's agent(s) is required to pay the tenant for each space for which a rental agreement is terminated and a statement that if the circumstances eliminating the payment obligation under ORS 90.645(2) apply, the facility owner(s) or landlord's agent(s) is not required to make the payment; and

(B) A notice that the facility owner(s) or landlord's agent(s) is not required to make the payment under ORS 90.645(1) unless the tenant gives the facility owner(s) or landlord's agent(s) not less than 30 days and not more than 60 days written notice of the date within the 365 day period on which the tenant will cease tenancy;

(C) A statement that if the manufactured dwelling is abandoned, the facility owner(s) or landlord's agent(s) may condition the payment upon waiver by the tenant under ORS 90.645(5) and may not charge the tenant to store, sell or dispose of the abandoned manufactured dwelling; and

(D) A statement of the rights of the landlord and the tenant under ORS 90.645(6), (7) and (8); and

(f) A copy of ORS 90.645 and the definitions in ORS 90.100 for "facility owner(s) or landlord's agent(s)," "manufactured dwelling," 'manufactured dwelling park," "month-to-month tenancy," "rental agreement," and "tenant"

(2) A facility owner(s) or landlord's agent(s) shall deliver the notice to which this rule applies either personally or by first class mail, as "first class mail" is defined in ORS 90.100, to each affected tenant. A facility owner(s) or landlord's agent(s) shall deliver the notice so that the tenant receives the notice not later than the 365th day or the 180th day, as applicable, before the date designated in the notice for termination. The notice shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the facility owner(s) or landlord's agent(s). In any sublet unit, the notice shall be delivered to the tenant at the tenant's current address and to the subtenant in possession. If the tenant's address is unknown and not reasonably discoverable, the notice for the tenant shall be

delivered to the subtenant with written instructions to forward it to the tenant. Failure of the subtenant to deliver the notice to the tenant does not limit the facility owner(s)' or landlord's agent(s)' right to terminate the rental agreement because of facility closure.

(3) For the notice of the closure of a facility or part of a facility that the facility owner(s) or landlord's agent(s) of the facility must give tenants under ORS 90.645(3), the Manufactured and Marina Community Resource Center (MMCRC) establishes the sample form designated for the notice on the department's website under the Community Service connection. The sample form is also available upon request from the department.

STATUTORY/OTHER AUTHORITY: ORS 90.650, ORS 446.403

STATUTES/OTHER IMPLEMENTED: ORS 90.645, ORS 90.650

AMEND: 813-065-0120

RULE TITLE: Facility Closure Notice When Closure is Required by Eminent Domain or Government Order

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: Updates terminology in rule including park to facility and landlord to facility owner or landlord agent

RULE TEXT:

(1) When a facility or a portion of the facility that includes the space for a manufactured dwelling is to be closed under ORS 90.645(9), the facility owner(s) or landlord's agent(s) of the facility shall provide at least the following information to the tenants of the facility or the affected portion of the facility, as applicable:

(a) The information required by ORS 90.645(9);

(b) The facility owner(s) or landlord's agent(s)' address for contact and communications;

(c) The actions and activities the facility owner(s) or landlord's agent(s) plans to take in the facility closure that may affect the facility tenants;

(d) A copy of ORS 90.645 and of this OAR chapter 813, division 008, and the definitions in ORS 90.100 for “facility owner(s) or landlord's agent(s),” “manufactured dwelling,” “manufactured dwelling park,” month to month tenancy,” “rental agreement” and “tenant”; and

(2) When the federal, state or local law or order that requires closure or partial closure of a facility under ORS 90.645(9) is known by the facility owner(s) or landlord's agent(s) to provide greater rights or protections for a tenant than are provided by ORS 90.645(9), including government relocation benefits, the facility owner(s) or landlord's agent(s) shall do the following:

(a) Modify the notice required to be furnished to tenants by section (1) of this rule so that the notice explains the greater rights or protections and retains material that is otherwise required and applicable, or give the notice required under the federal, state or local law and include all material in the notice required by section (1) of this rule that remains applicable; and

(b) Include with the notice a copy of the applicable law or order.

(3) Facility owner(s) or landlord's agent(s) shall deliver the notice to which this rule applies either personally or by first class mail, as “first class mail” is defined in ORS 90.100, to each affected tenant. Facility owner(s) or landlord's agent(s) shall deliver the notice so as to ensure that the tenant is given the full 15 days’ notice. The notice shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the facility owner(s) or landlord's agent(s). In any sublet unit, the notice shall be delivered to the tenant at the tenant’s current address and to the subtenant in possession. If the tenant's address is unknown and not reasonably discoverable, the notice for the tenant shall be delivered to the subtenant with written instructions to forward it to the tenant. Failure of the subtenant to deliver the notice to the tenant does not limit the facility owner(s)' or landlord's agent(s)' right to terminate the rental agreement because of facility closure.

(4) For the notice of closure of a facility or part of a facility that the facility owner(s) or landlord's agent(s) of the facility must give tenants under ORS 90.645(9), the Manufactured and Marina Community Resource Center (MMCRC) establishes the sample form designated for the notice on the Department’s website under the Community Service Division connection. The sample form is also available upon request from the Department.

STATUTORY/OTHER AUTHORITY: ORS 446.403

STATUTES/OTHER IMPLEMENTED: ORS 90.645, 90.650

AMEND: 813-065-0130

RULE TITLE: Park Closure Notice When Local Laws are More Stringent

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: updating the terminology: park to facility and landlord to facility owner or landlord agent

RULE TEXT:

When an ordinance, rule or other local law regulating facility closures or partial closures adopted by a local government continues to apply to a facility under ORS 90.660, if the local law provides greater rights or protections for a tenant than are provided by ORS 90.645, the facility owner(s) or landlord's agent(s) shall do the following:

(1) Modify the notice required to be furnished to tenants by ORS 90.645 and either OAR 813-065-0110 or 813-065-0120 as applicable, so that the notice explains the greater rights or protections under the local law and retains material that is otherwise required and applicable, or give the notice required under the local law and include all material in the notice required by section (1) of this rule that remains applicable.

(2) Include with the notice a copy of the local law that applies.

STATUTORY/OTHER AUTHORITY: ORS 90.650, 446.403

STATUTES/OTHER IMPLEMENTED: ORS 90.645, 90.650

AMEND: 813-065-0140

RULE TITLE: Copy of Park Closure Notice to Department; Tenant Contacts

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: updating terminology: park to facility and landlord to facility owner(s) or landlord agent(s)

RULE TEXT:

When a facility owner(s) or landlord's agent(s) gives notice of closure of a facility to tenants of the park as required by OAR 813-065-0110, 813-065-0120 or 813-065-0130, the facility owner(s) or landlord's agent(s) shall also furnish all of the following to the Department:

(1) A copy of the entire notice given to the tenants. The copy must include copies of any accompanying statutes, rules and local laws, except that instead of the statutes and rules, the facility owner(s) or landlord's agent(s) may provide specific statute and rule number citations. If the facility owner(s) or landlord's agent(s) gives notices with differing content to different categories of tenants, the facility owner(s) or landlord's agent(s) shall furnish to the Department a copy of each such notice given. If local laws apply under OAR 813-008-0130, the landlord shall also furnish a copy of the applicable local laws.

(2) A list of the names of all tenants to whom the facility owner(s) or landlord's agent(s) gave the notice, with contact information for each tenant that includes the tenant’s address, space number and phone number.

STATUTORY/OTHER AUTHORITY: ORS 90.650, 446.403

STATUTES/OTHER IMPLEMENTED: ORS 90.645, 90.650

AMEND: 813-065-0150

RULE TITLE: Notice of Tax Credit Eligibility Upon Closure of Park; Sample Form

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: updating terminology within the rule

RULE TEXT:

For the notice of tax credit and right to appeal that a facility owner(s) or landlord's agent(s) of a facility is required by ORS 90.650 to give to a tenant when a facility is closed, the MMCRC establishes the sample form designated for the notice on the Department’s website. The sample form is also available upon request from the Department.

STATUTORY/OTHER AUTHORITY: ORS 90.650

STATUTES/OTHER IMPLEMENTED: ORS 90.645, 90.650

REPEAL: 813-065-0200

RULE TITLE: General Purpose

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: This is redundant and not needed.

RULE TEXT:

OAR 813-065-0200 to 813-065-0240 are adopted for the purpose of carrying out the requirements of ORS 90.671 for notices that landlords of marinas must give to tenants when a marina is closed.

STATUTORY/OTHER AUTHORITY: ORS 90.671

STATUTES/OTHER IMPLEMENTED: ORS 90.671

AMEND: 813-065-0210

RULE TITLE: Facility Closure Notice

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: updating terminology within the rule

RULE TEXT:

(1) When a facility owner(s) or landlord agent(s) is required by ORS 90.671(1) to give a tenant written notice of termination of a rental agreement because the facility or portion of a facility is closing and the land or leasehold is being converted to a different use, the facility owner(s) or landlord agent(s) shall provide at least the following information in the notice:

(a) The facility owner(s) or landlord agent(s) address for contact and communications;

(b) The firm date set for the closure of the facility or of the relevant portion of the facility;

(c) The actions and activities the facility owner(s) or landlord agent(s) plans to take in the closure that may affect the facility tenants;

(d) The facility owner(s) or landlord agent(s)' obligations under ORS 90.671;

(e) The tenant's rights for a 365-day closure notice or 180-day closure notice, as applicable, including the right, if any, for payment of moving expenses under OAR 813-065-0240 and the eligible moving expenses described in 813-065-0230;

(f) The voluntary benefits, if any, to be provided to the tenant by the facility owner(s) or landlord agent(s) or contracted between the parties, together with any shortened period between notice and termination of the rental agreement arising therefrom;

(g) A copy of ORS 90.671 and OAR 813-065-0200 to 813-065-0240;

(h) Any definitions of statutory terms used in OAR 813-065-0200 to 813-065-0240, applicable to the tenant's rights under the rules; and

(i) A copy of any city or county regulations, laws or ordinances that apply to tenant interests in closures of facilities and, if the local regulations, laws or ordinances provide greater rights and protection than are available under state law, a statement that the tenant may be entitled to the greater rights and protections and a description of the additional rights and protections that apply.

(2) When a facility owner(s) or landlord agent(s) is required by ORS 90.671(7) to give a tenant written notice of termination of a rental agreement and the applicable federal, state or local law or order is known by the facility owner(s) or landlord agent(s) to provide greater rights or protections for a tenant than are provided by ORS 90.671(7), including government relocation benefits, the facility owner(s) or landlord agent(s) shall furnish the tenant a copy of the applicable law or order and:

(a) In the notice required by ORS 90.671(7), shall include an explanation of the greater rights; or

(b) Instead of the notice required by ORS 90,671(7), if the federal, state or local law requires a notice of the rights or protections, shall provide that notice along with all material in the notice required by ORS 90.671(7).

(3) The facility owner(s) or landlord agent(s) shall deliver a notice required by ORS 90.671 personally or by first class mail to each affected tenant so that the tenant receives the notice not later than the applicable required number of days before the date designated in the notice for termination. The notice must be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the facility owner(s) or landlord agent(s). In any sublet unit, the notice must be delivered to the tenant at the tenant’s current address and to the subtenant in possession. If the tenant's address is unknown and not reasonably discoverable, the facility owner(s) or landlord agent(s) shall deliver the tenant’s copy to the subtenant with written instructions to forward it to the tenant. Failure of the subtenant to deliver the copy to the tenant does not limit the facility owner(s) or landlord agent(s)' right to terminate the rental agreement because of the closure.

STATUTORY/OTHER AUTHORITY: ORS 90.671

STATUTES/OTHER IMPLEMENTED: ORS 90.671

AMEND: 813-065-0220

RULE TITLE: Alternate Facility Space

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: updated terminology in rule

RULE TEXT:

(1) The facility owner(s) or landlord's agent(s) shall notify the tenant, in writing, of alternate space to which the tenant can move the floating home at least 45 days before delivering a 180-day notice of termination.

(2) The tenant may determine, solely at the judgment and discretion of the tenant, if the alternate space identified in the notice given under section (1) of this rule is acceptable and shall notify the facility owner(s) or landlord's agent(s) in writing of the tenant's decision not later than the 20th day after the tenant receives the notice.

(3) The facility owner(s) or landlord's agent(s) shall secure the space acceptable to the tenant from the time of acceptance until the date the relocated floating home is approved for the tenant's occupancy. Costs to secure the space for this period must be included in the facility owner(s) or landlord's agent(s)' paid moving expenses.

STATUTORY/OTHER AUTHORITY: ORS 90.671

STATUTES/OTHER IMPLEMENTED: ORS 90.671

AMEND: 813-065-0230

RULE TITLE: Moving and Set Up Expenses

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: update terminology in the rule

RULE TEXT:

(1) The facility owner(s) or landlord's agent(s) shall pay or reimburse actual moving and set-up expenses, as agreed by the facility owner(s) or landlord's agent(s) and the tenant, for moving the tenant's floating home, together with all possessions. Eligible expenses include, but are not limited to:

(a) Costs for disconnecting and reconnecting utilities, including fees related thereto;

(b) Costs for disconnecting and reinstalling any awning or deck;

(c) Any governmental fees relating to moving and inspecting the floating home;

(d) Costs of moving the floating home;

(e) Set-up charges;

(f) Costs for floating home improvements necessary to meet destination marina space standards;

(g) Costs for packing and unpacking contents of the floating home as necessary for relocation of an elderly or disabled person;

(h) Costs for temporary housing and meals for the tenant during relocation and set up; and

(i) Facility owner(s) or landlord's agent(s) expenses to secure the relocation space from the time of tenant acceptance until the date the relocated floating home is approved for occupancy.

(2) This rule does not require a facility owner(s) or landlord's agent(s) to pay an amount of moving and set-up expenses that exceeds actual costs or $3,500, whichever is less, unless the facility owner(s) or landlord's agent(s) otherwise agrees.

STATUTORY/OTHER AUTHORITY: ORS 90.671

STATUTES/OTHER IMPLEMENTED: ORS 90.671

AMEND: 813-065-0240

RULE TITLE: Payment of Expenses

NOTICE FILED DATE: 06/16/2023

RULE SUMMARY: update terminology in the rule

RULE TEXT:

(1) The tenant and facility owner(s) or landlord's agent(s) shall agree in writing upon the moving and set-up method and the source of services to be provided for the method not less than the 20th day before the tenant's required moving date.

(2) The facility owner(s) or landlord's agent(s) shall timely pay unpaid billings directly to the vendor and shall reimburse the tenant for appropriate expenses paid directly by the tenant if the tenant submits billings or paid receipts for the expenses within ten days after receiving the billings or receipts. The facility owner(s) or landlord's agent(s) shall reimburse the tenant not later than the 20th day after the tenant submits the billings or receipts.

(3) The facility owner(s) or landlord's agent(s) may contract directly with vendors for the tenant's move if the services are mutually agreed upon in writing by the facility owner(s) or landlord's agent(s) and tenant and are performed by appropriately registered or licensed and bonded personnel.

(4) If the facility owner(s) or landlord's agent(s) and tenant do not reach an agreement in a timely manner prior to the tenant's required moving date, the facility owner(s) or landlord's agent(s) shall timely reimburse the tenant for appropriate moving and set-up expenses consistent with this rule.

STATUTORY/OTHER AUTHORITY: ORS 90.671

STATUTES/OTHER IMPLEMENTED: ORS 90.671