Chapter ATCP 125

MANUFACTURED HOME COMMUNITIES — FAIR TRADE PRACTICES

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Note: Chapter Ag 125 as it existed on May 31, 1976 was repealed and a new chapter Ag 125 was created effective June 1, 1976; Chapter Ag 125 was renumbered chapter ATCP 125 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.20 (6), 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss, together with costs and reasonable attorneys' fees.

Note: Landlord-tenant relationships in manufactured home communities are subject to ch. 704 and s. 710.15, Stats., this chapter and ch. ATCP 134, (Residential Rental Practices). Trade practices related to certain sales of mobile homes are subject to ch. Trans 141, (Manufactured Home Retailer Trade Practices, Facilities and Records).

ATCP 125.01 Definitions. As used in this chapter:

(1e) "CPI" means the annual average consumer price index — all urban consumers, as calculated and published by the United States bureau of labor statistics.

(1m) "Electronic communications service" has the meaning given in s. ATCP 123.01 (5).

(1s) "Manufactured home" means any of the following:

(a) A manufactured home as defined in s. 101.91 (2) (am), Stats.

(b) A unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring, or recreational purposes.

(2) "Manufactured home community" means any tract of land containing 2 or more sites.

(3) "Operator" means any person engaged in the business of renting sites in a manufactured home community to tenants. "Operator" includes officers, representatives, agents, and employees.

(4) "Person" means any individual, corporation, partnership, association, business organization or entity.

(5) "Rental agreement" means an agreement between an operator and a tenant for the rental of a site.

(6) "Security deposit" means the total of all payments and deposits given by a tenant to the operator as security for the performance of the tenant's obligations, and includes all rent payments in excess of one month's prepaid rent.

(7) "Site" means any plot of land that is rented or offered for rental for the accommodation of a manufactured home used for residential purposes. It does not include a plot of land rented for the accommodation of a manufactured home that is:

(a) Occupied on a strictly seasonal basis; or

(b) Owned by the operator and occupied as a residence.

(9) "Tenant" means any person residing in a manufactured home and renting a site from an operator.

(10) "Utility service" means:

(a) Electricity and natural gas;

(b) Liquified petroleum gas other than liquified petroleum gas in portable containers;

(c) Fuel oil supplied through a permanent central system in the manufactured home community; and

(d) Electronic communications service.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.02 and am., cr. (intro.), (6) and (8), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: renum. (1) to (1s) and am., cr. (1e), (1m), am. (2), (3), (7) (intro.), r. (8), am. (9), (10) (a), (c), (d) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.02 Tie-in sales; separate or discriminatory charges. No operator shall:

(1) Require, as a condition to the rental of any site, the purchase of a manufactured home from the operator or any dealer, manufacturer, or agent named by the operator.

(2) Represent to any person that the purchase of a manufactured home from the operator or any dealer, manufacturer, or agent named by the operator will give the purchaser an advantage over others in the rental or continued occupancy of a site.

(3) Discriminate or threaten to discriminate in rental charges or in any other respect against a tenant for failure of the tenant to purchase a manufactured home from the operator or any dealer, manufacturer, or agent named by the operator.

(4) Solicit or receive any payment or other thing of value from any seller of a manufactured home for agreeing to rent a site to the purchaser of such manufactured home.

(5) Solicit or receive any payment or other thing of value from any person upon the representation or understanding that such consideration will give that person an advantage over others in the rental or continued occupancy of a site.

(6) Use a manufactured home site to display a manufactured home offered for sale, or rent a site to a manufactured home dealer for purposes other than accommodation of a manufactured home occupied as a residence, if the use or rental of the site results in there being no site in the manufactured home community available to a prospective tenant who does not purchase a manufactured home from the operator or renting dealer.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.02 and cr. (6), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (1) to (4), (6) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.03 Rental agreement; requirements. **(1)** Every rental agreement shall be in writing. A copy of the rental agreement shall be furnished to the tenant at the time the rental agreement is executed. If a manufactured home is purchased from or through the operator, a copy of the rental agreement shall be furnished to the tenant before the tenant signs the manufactured home purchase contract. The rental agreement shall conspicuously set forth all terms and conditions affecting the rental of the site, and shall include:

(a) The amount of rent for each rent paying period and all property, services, and facilities provided by the operator and

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included in the rent. Except as provided in sub. (5), the amount of the rent shall be expressed in a dollar amount.

(b) The amount of any security deposit, installation charge, or other charge payable by the tenant under the rental agreement but not included in the rent, including charges for utility services provided through the operator's facilities. If utility service charges are based on the amount of utility service used, the rental agreement shall set forth either the specific rate or the method by which the charges are to be computed.

(c) Rules and regulations shall be included in or attached to the main body of the rental agreement.

(d) The approximate size of the site and its location in the manufactured home community.

(e) The amount of the monthly municipal permit fee assessed by local units of government and payable by the tenant. If the monthly fee is not known, an approximation shall be given.

(em) The amount and due dates of fees assessed by local units of government for waste hauling, recycling, or similar services payable by the tenant. If the amount and due dates are not known, an approximation shall be given.

(f) Notice that the operator reserves the right to screen the purchaser of a tenant's manufactured home before renting a site to the purchaser, subject to s. 710.15, Stats.

(g) A disclosure as to whether the manufactured home community contains an emergency shelter, and, if the community has an emergency shelter, the location of the emergency shelter and procedures for its use.

(h) A copy of the manufactured home community rules and regulations.

Note: Under s. 710.15 (5m), Stats., an operator may terminate a tenancy if the tenant refuses to sign a rental agreement.

(2) The initial, and each succeeding rental agreement shall be for a term of no less than one year, unless a shorter term is requested in writing by the tenant and agreed to by the operator. Under any agreement for a rental term of 2 months or more, rental payments shall, at the option of the tenant, be payable in equal monthly installments.

(3) The operator shall, at the time the rental agreement is entered into, and throughout the term of the rental agreement, make available to the tenant the name, address, and telephone number of a person who may be contacted concerning the maintenance of facilities and services provided by the operator. Such information shall be included in the tenant's copy of the rental agreement or in a separate written notice furnished to the tenant.

(4) Except as provided in sub. (5), rent and other charges under the rental agreement may not be increased during the term of the rental agreement. This subsection does not apply to:

(a) Municipal permit fees, recycling fees, waste hauling fees, or other fees assessed by local units of government.

(b) Charges for utility services delivered and billed directly to the tenant by a public utility or other outside source.

(c) Charges for utility services purchased by the operator and delivered and billed to the tenant by the operator but not included in the rent, if the increase is solely to cover an increase in charges to the operator by the supplier of the utility service.

(5) If the rental agreement is for a period of three years or greater, and all of the following conditions are met, the amount of rent due each rent paying period may be expressed as a formula that includes a base dollar amount and a future adjustment factor tied to the CPI:

(a) The operator offered the tenant the option of entering into a rental agreement that was for a period of less than three years.

(b) The rental agreement specifies the initial amount of rent due for each rent paying period, and that the operator shall provide the tenant with actual dollar amounts of rent due in future rent paying periods as applicable.

(c) If the actual dollar amount of rent due changes under the formula, the operator shall provide the tenant written notice at least 60 calendar days before the new actual dollar amount is due.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.04 and r. (1) (c), am. (1) (intro.), (b) and (2), renum. (1) (d), (e) and (f) to be (1) (c), (d) and (e) and am. (1) (c), cr. (1) (f), (g) and (4), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (1) (intro.), (a), (d), (e), cr. (1) (em), am. (1) (f), (g), cr. (1) (h), am. (4) (intro.), (a), cr. (5) Register December 2013 No. 696, eff. 1-1-14; correction in (1) (g) made under s. 35.17, Stats., Register December 2013 No. 696.

ATCP 125.04 Rental agreement; limitations. (1) ENTRANCE AND EXIT FEES. No operator may charge an entrance fee or exit fee in return for allowing the movement of a manufactured home into or out of a manufactured home community. This subsection does not apply to:

(a) Periodic payments for the rental of a site, pursuant to the rental agreement.

(b) A security deposit not exceeding the amount of 2 months' rent or $750, whichever is less.

(c) Material and labor costs incurred by the operator to move a tenant's manufactured home into or out of the manufactured home community, to install the manufactured home on a site or remove it from a site, or to connect or disconnect utility services. The amount of any charges, or the basis upon which charges are to be calculated, shall be clearly set forth in the rental agreement.

(2) RESTRICTIONS ON CHOICE OF VENDORS. No operator may restrict the choice of vendors from whom a tenant may purchase goods or services. This subsection does not apply to:

(a) Utility services, subject to sub. (3).

(b) Service provided by the operator in the installation of a manufactured home on a site, or in the removal of a manufactured home from a site, pursuant to sub. (1) (c).

(c) Snow removal, lawn care, or similar site maintenance services performed by the operator upon the failure of a tenant to fulfill the tenant's site maintenance obligations under the rental agreement. No charges may be imposed for site maintenance services performed by the operator under this paragraph unless the tenant, if available, is given prior notice and a reasonable opportunity to perform the tenant's obligations under the rental agreement. Charges for site maintenance services shall be set forth in the rental agreement.

(d) Services involving the transportation of a mobile home to or from the site within the manufactured home community, if the operator can show that the person providing the service has damaged property within the manufactured home community during a previous move and failed to compensate the operator for the damages.

(e) A nondiscriminatory prohibition against sales solicitations within the manufactured home community.

(3) CHARGES FOR UTILITY SERVICES. (a) Charges for a utility service provided through the operator's facilities, if not included in the rent, shall be based on the amount of the utility service used by tenants. Charges for electronic communications service provided through the operator's facilities may be assessed in the form of a uniform charge to subscribing tenants, subject to par. (b). Charges, or the method of computing

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charges for utility services provided through the operator's facilities shall be set forth in the rental agreement under s. ATCP 125.03 (1) (b).

(b) If electronic communications service is provided by the operator but not included in the rent, the operator may not limit a tenant's access to electronic communications service provided by an outside source.

Note: This paragraph is not intended to deny to an operator any right which the operator may have to compensation from a cable television company for easements or other use of the operator's property.

(c) Charges for utility services provided through the operator's facilities, if based on amounts used, shall be periodically invoiced in writing to tenants. Invoices shall specify both the charge and the amount of the utility service used.

(d) Charges for utility services provided through the operator's facilities, if not included in the rent, shall be competitive with retail prices charged for the same or equivalent services by public utilities or other local sources. If a utility service is provided directly to tenants by a public utility or other outside source, no additional charge may be assessed for the service by the operator.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; r. and recr. Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (1) (intro.), (b), (c), (2) (b), (d), (e), (3) (a), (b) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.05 Changes in rental terms or manufactured home community rules. (1) If any change or increase in rent or fees, or any other substantial change in the terms or conditions of tenancy is to be made in connection with the renewal of any rental agreement, a copy of the proposed new agreement, or amendments to the existing agreement, shall be furnished to the tenant, in writing, at least 28 days prior to the date on which the proposed new agreement is to take effect. All changes shall be specifically brought to the tenant's attention by a separate statement on the proposed rental agreement or in a separate written document attached to the rental agreement. The operator or a representative of the operator shall meet with tenants, or any group of tenants, on the proposed changes, at their request. Nothing in this section shall be construed as interfering with the operator's right to terminate any tenancy in accordance with s. 710.15 and ch. 704, Stats., and s. ATCP 125.09, if the tenant declines to accept the proposed new agreement.

(2) Rules and regulations which substantially affect the rights or duties of tenants or the operator under s. 710.15, Stats., or this chapter may not be created or changed during the term of the rental agreement. This includes but is not limited to:

(a) Rules setting standards and requirements for skirting, weatherproofing or frostproofing, and auxiliary buildings or sheds.

(b) Rules limiting occupancy of manufactured homes with respect to the number or age of occupants.

(c) Vehicle parking rules imposed by the operator.

(d) Rules restricting or regulating overnight guests.

(e) Rules restricting or regulating pets.

(f) Rules requiring tenants to repair or maintain their manufactured home.

(g) Rules defining the tenant's and operator's rights and responsibilities with regard to maintenance of the site.

(h) Rules restricting or regulating tenants' outdoor antennas or satellite dishes.

(3) Except as otherwise provided in this chapter, an operator may change or create general manufactured home community rules and regulations during the term of any rental agreement or tenancy, provided all tenants are given at least 28 days prior written notice of any proposed change and an opportunity to meet with the operator or a representative of the operator on the proposed change before it takes effect.

(4) Notice of proposed changes in rental terms and conditions or manufactured home community rules and regulations under this section may be furnished to the tenant in person or by mail. Notice by mail shall be considered actual notice.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.06 and renum. (2) and (3) to be (3) and (4) and am., cr. (2), am. (1), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (title), (2) (b), (c), (f), (3), (4) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.06 Sale of manufactured home; transfer of tenancy. (1) No operator may:

(a) Require any tenant to designate the operator, or any person named by the operator, as agent for the sale of a tenant's manufactured home, or unreasonably restrict the sale of a tenant's manufactured home by the tenant or an agent of the tenant's own choosing.

Note: Sections 710.15 (3) and (4), Stats., provide that:

"(3) PROHIBITED CONSIDERATION OF AGE OF MOBILE HOME OR MANUFACTURED HOME. (a) An operator may not deny a resident the opportunity to enter into or renew, and may not include, exclude or alter any terms of, a lease to continue to locate a mobile home or manufactured home in the community solely or in any part on the basis of the age of the mobile home or manufactured home.

(b) An operator may not require the removal of a mobile home or manufactured home from a community solely or in any part of the basis of the age of the mobile home or manufactured home, regardless of whether the ownership or occupancy of the mobile home or manufactured home has changed or will change."

"(4) PROHIBITED CONSIDERATION OF CHANGE IN OWNERSHIP OR OCCUPANCY OF MOBILE HOME OR MANUFACTURED HOME. An operator may not require the removal of a mobile home or manufactured home from a community solely or in any part because the ownership or occupancy of the mobile home or manufactured home has changed or will change. An operator may refuse to enter into an initial lease with a prospective resident or occupant for any other lawful reason."

(b) Solicit or receive any payment or other thing of value as a condition to the assignment or sublease of a rental agreement by a tenant, or as a condition to the transfer of tenancy to a buyer of the tenant's manufactured home.

(c) Sell, for placement in a manufactured home community owned or operated by the operator, any manufactured home purchased from a tenant who was prohibited from selling the home directly for placement in the manufactured home community.

(d) Refuse to rent a site to the purchaser of a tenant's manufactured home except for reason specified under s. 710.15 (5m), Stats. This does not prohibit the screening of prospective tenants by an operator.

(e) Limit a tenant's ability to post, on the tenant's manufactured home or on the site on which the mobile home is located, a "For Sale" sign or other advertisement announcing the tenant's offer to sell the tenant's manufactured home if the limitation is not applied uniformly to every person, including the operator and any manufactured home dealer, who sells or offers to sell a manufactured home on site in the manufactured home community.

(2) This section does not create or extend any interest in real estate, or prohibit the lawful screening of new tenants by the operator.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.07, renum. (1) and (2) to (1) (a) and (b) and am., cr. (1) (intro.), (c) to (e) and (2), r. (3), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (title), (1) (a) to (e) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.07 Manufactured home relocation. (1) No tenant shall be required to relocate a manufactured home within a manufactured home community during the term of the rental agreement, or to assume the cost of any required relocation under a new or renewal rental agreement, except in emergency or where the tenant has violated the terms and conditions of the rental agreement. This does not apply to a mobile home that has been vacated by the tenant.

(2) Any required relocation shall, except in emergency, be preceded by written notice setting forth the reason for such relocation. Notice shall be given within the time period required under ch. 704, Stats., for termination of tenancies.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.08, Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (title), (1) Register December 2013 No. 696, eff. 1-1-14.

ATCP 125.08 Termination of tenancy. (1) Whenever an operator terminates any rental agreement or refuses, upon the expiration of a lease, to renew the lease or to enter into a new rental agreement, the operator shall provide the tenant with written notice setting forth the reason for such termination or refusal. Notices of termination shall comply with the requirements of s. 710.15 and ch. 704, Stats., as applicable. If the rental agreement does not comply with the requirements of s. ATCP 125.03 (1) (intro.) and (2), the operator shall comply with the notice requirements of s. 704.17 (2), Stats., when terminating a tenancy, unless the operator or tenant proves that other notice requirements under s. 704.17 (1p) or (3), Stats., are applicable.

Note: Section 710.15 (5m), Stats., provides that:

"Notwithstanding ss. 704.17 and 704.19, the tenancy of a resident or occupant in a community may not be terminated, nor may the renewal of the lease be denied by the community operator, except upon any of the following grounds:

(a) Failure to pay rent due, or failure to pay taxes or any other charges due for which the community owner or operator may be liable.

(b) Disorderly conduct that results in a disruption to the rights of others to the peaceful enjoyment and use of the premises.

(c) Vandalism or commission of waste of the property.

(d) A breach of any term of the lease.

(e) Violation of community rules that endangers the health or safety of others or disrupts the right to the peaceful enjoyment and use of the premises by others, after written notice to cease the violation has been delivered to the resident or occupant.

(em) Violation of federal, state or local laws, rules or ordinances relating to mobile homes or manufactured homes after written notice to cease the violation has been delivered to the resident or occupant.

(f) The community owner or operator seeks to retire the community permanently from the housing market.

(g) The community owner or operator is required to discontinue use of the community for the purpose rented as a result of action taken against the community owner or operator by local or state building or health authorities and it is necessary for the premises to be vacated to satisfy the relief sought by the action.

(h) The physical condition of the mobile home or manufactured home presents a threat to the health or safety of its occupants or others in the community or, by its physical appearance, disrupts the right to the enjoyment and use of the community by others.

(i) Refusal to sign a lease.

(j) Material misrepresentation in the application for tenancy.

(k) Other good cause."

(2) No operator shall terminate a rental agreement or refuse, upon expiration of a lease, to renew the lease or to enter into a new rental agreement for the reason that:

(a) The tenant has reported a violation, by the operator, of this chapter or any other law to any governmental authority, or filed suit alleging such violation.

(b) The tenant is a member of a tenant's union or association.

(c) The operator wishes to make a site available to a person purchasing a mobile home from the operator or an agent of the operator.

(3) No operator may solicit or receive any payment or other thing of value, except for normal rental payments, in return for permitting a tenant to leave the tenant's mobile home in the manufactured home community upon termination of tenancy.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.09 and am. (1) and (3), Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (1), (3) Register December 2013 No. 696, eff. 1-1-14; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2018 No. 755.

ATCP 125.09 Prohibited practices; general. No operator shall:

(1) Make any false, deceptive, or misleading representation to induce a manufactured home sale or site rental, or make any representation inconsistent with or contrary to the written rental agreement.

(2) Impose any term or condition, or any rule or regulation which the operator knows or reasonably ought to know is in conflict with this chapter or other applicable law.

(3) Require any tenant to make permanent improvements to the manufactured home community or any of its facilities, or assess any separate charge therefor. This subsection does not prevent the operator from requiring the tenant to install the manufactured home according to applicable installation codes.

(4) Enter a tenant's manufactured home without the tenant's permission and reasonable prior notice to the tenant. This does not prohibit the operator from entering a tenant's manufactured home if the tenant cannot be contacted and the operator reasonably believes that entry is necessary because of emergency, or to preserve and protect the manufactured home or the manufactured home community.

Note: Entry by an operator into a tenant's manufactured home may be prohibited by other applicable law.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; renum. from Ag 125.10 and r. (4), renum. (5) to be (4) and am. Register, February, 1987, No. 374, eff. 3-1-87; CR 13-027: am. (1), (3), (4) Register December 2013 No. 696, eff. 1-1-14.