



## COVID-19 FREQUENTLY ASKED QUESTIONS

### Landlord/Tenant FAQs

#### **Can landlords evict tenants right now?**

It depends on what the eviction is based on. As of September 4, 2020, the Centers for Disease Control and Prevention (CDC), through [executive action](#), has halted the filing of evictions based on nonpayment of rent until after June 30, 2021. Nothing in the Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

#### **Do tenants still have to pay rent?**

Yes, payment of rent in a timely manner is a material term of every residential lease agreement. Some lease agreements provide for late fees, penalties, and interest for untimely payment of rental payments. And most leases say that failure to pay rent can constitute an event of default that could result in eviction. But each lease is different, and some allow a period of time for tenants who have not timely paid a month to cure the default. Other leases have specific force majeure ("act of God") provisions that could favor tenants. Plus, given the unusual and pervasive circumstances of the COVID-19 (i.e., coronavirus) pandemic and the resulting public health orders and governmental directives, many landlords are willing to work with tenants to either defer rental payments to a later date, give a temporary rent abatement, agree to forbearance, stipulate to a payment plan, or extend the lease period.

#### **Will tenants owe back rent as a result of the delayed eviction process? What about charging interest on back rent?**

Yes, tenants must still pay all rent due under the lease agreement, even if the landlord cannot actually proceed with eviction proceedings right now. This includes back rent. A landlord who

wants to get paid for rent or back rent can file suit for money damages as part of a Forcible Entry and Detainer (i.e. Eviction) proceeding. Tenants may legally be responsible for interest on the amount owed, depending on the circumstances. However, Governor Polis's [Executive Order D 2020 073](#) prohibits landlords and lenders from charging late fees or penalties due to nonpayment of rent through approximately April 28, 2021. This date is subject to further extension by Executive Order.

Alpine Legal Services encourages tenants and landlords to be in communication with one another throughout this crisis about the process of paying rent and back rent. It is generally in both parties' interest to reach an agreement for payment of the back rent over a reasonable period of time, and for the tenant to stay and avoid an eviction. Governor Polis' [Executive Order D 2020 051](#) directs the Department of Local Affairs, Department of Labor and Employment, and Department of Regulatory Agencies to create model repayment agreements for landlords and tenants to use.

### **What options are available to both the landlord and tenant if a lease is ending and the landlord has another tenant moving in?**

A tenant who stays past a lease's expiration (including a month-to-month lease, if one of the parties has given at least one month's notice of termination, and the landlord hasn't accepted money for the new month) is considered a "holdover tenant." Generally speaking, this means the landlord can evict the tenant and sue for damages (if any).

However, it is important for tenants to realize that, once the moratorium on eviction cases in the courts ends, if no agreement is in place as to payment of rent, the eviction process may move forward very quickly, especially because there are few defenses when the cause of eviction is lack of payment. Therefore, it is best for both parties to attempt to negotiate and/or prepare an alternative plan as soon as possible. This is because damages are minimal at that stage and both parties can avoid going through the eviction process and finding new housing or a new tenant.

### **What options are available to landlords if a tenant is a danger to the landlord or other tenants?**

If a tenant is a danger to public safety, the landlord should contact the police to deal with the emergency. The landlord may also file a Forcible Entry and Detainer (often called an "eviction") proceeding. Evictions of tenants who pose an imminent and serious threat to others or who cause significant property damage may still be filed under Governor Polis's Executive Order.

**What should landlords do if they suspect that there is domestic violence or child abuse happening in one of their residences?**

Landlords should consider calling the police and supporting any potential victims to get them to safety and to connect them with local domestic violence resources, such as [Response](#) in Aspen or [Advocate Safehouse Project](#) in Glenwood Springs. There is also a 24-hour confidential hotline to report child abuse: 1-844-CO-4-KIDS (1-844-264-5437). Please keep in mind that, given the stay-at-home order, landlords and other tenants may be the only people in a position to report domestic violence and child abuse. Please act to protect our community!

Please also note that landlords may take measures to evict domestic violence abusers, as this tenant qualifies as someone who poses an imminent and serious threat to others.

**Can a tenant's utilities be disconnected for nonpayment?**

The Executive Order issued by Governor Jared Polis which created a moratorium on utility disconnections has expired. At this time, though discouraged on account of COVID-19, a tenant's utilities may be disconnected by the respective public utility company for non-payment. Residential customers of investor-owned utilities (Xcel Energy, Black Hills Energy, Atmos Energy, Colorado Natural Gas) may prevent a shutoff by providing the utility company a "medical certification" from a doctor, or health practitioner acting under a doctor's supervision, stating that disconnecting service would be especially dangerous to the health or safety of the customer or a permanent resident of the customer's household. For more information about utility disconnections and collections, see the PUC's For-Your-Information fact sheet on "[Your Rights as an Electric or Natural Gas Utility Customer](#)."

**What can landlords and tenants do to resolve disputes?**

A trained, neutral will help facilitate an agreement if possible between landlords and tenants from Parachute to Aspen who are having a housing dispute caused by COVID-19.

Call 970-230-3935 between 9-12 or 1-5, Monday through Friday, to be connected to a mediator.

**DISCLAIMER:** Alpine Legal Services has compiled these FAQ pages for residents in our service area (Aspen to Parachute, Colorado) in order to provide the public with general legal

information. This information is not intended as legal advice specific to your situation. While Alpine Legal Services strives to provide correct, updated information, the legal landscape is developing on a daily basis and we cannot guarantee the accuracy of all information provided here. **Please contact an attorney for legal advice.**