



COVID-19 FREQUENTLY ASKED QUESTIONS

Residential Tenancies

Can landlords evict tenants right now?

It depends on what the eviction is based on. Governor Polis, in [Executive Order D 2020 051](#), has halted the filing of evictions based on nonpayment of rent until after May 31, 2020. His order also prevents law enforcement from enforcing evictions that have already been ordered by a court until after May 31, 2020. However, landlords may still evict (and the sheriff may remove) for situations where the tenant poses “an imminent and serious threat to another individual or causes significant damage to property,” with the provision that contracting COVID-19 does not qualify as such a threat.

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.

However, Governor Polis’s [Executive Order D 2020 051](#) prohibits landlords and lenders from charging late fees or penalties due to nonpayment of rent during May.

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 051](#) prohibits landlords and lenders from charging late fees or penalties due to nonpayment of rent during May.

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, Governor Polis's [Executive Order D 2020 051](#) prohibits the filing of evictions and the sheriff actually evicting tenants until the end of May, with exceptions for tenants who pose an imminent and serious threat to others or who cause significant property damage.

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?

Colorado gas and electric utilities regulated by the Public Utilities Commission have announced that they are temporarily suspending nonpayment disconnections for their customers. Utilities include: Xcel Energy; Black Hills Energy; Atmos Energy; Colorado Natural Gas. Public access to PUC offices will be restricted starting at 1 p.m. Monday, March 23, until further notice.

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.**