

**PITKIN COUNTY SHERIFF'S OFFICE POLICIES FOR
EVICTIONS AND WRITS OF RESTITUTION**

1) 3-day Notice/Notice or Demand To Vacate:

C.R.S. 13-40-106

The general eviction process begins when the landlord gives a written Demand or Notice for the tenant(s) to vacate. Depending on the type of Notice used, the tenant may be ordered to vacate within 3 or 10 days.

This may be served or posted in a conspicuous place upon the premises by the landlord. Service by the Sheriff's Office is optional for a fee of \$35.00 plus \$0.50 per mile. We require one copy to serve, and one copy to keep for our records. Substitute service or posting in a conspicuous place is acceptable.

In the case of a mobile home eviction from a mobile home park, C.R.S. 38-12-204(1) allows the tenant(s) five days to remove the mobile home after the written Notice is served or posted. If posting, the papers must be affixed to the main entrance to the mobile home.

Types of Notices:

- a) Demand For Compliance or Possession—When the tenant is not complying with some aspect of the rental agreement.
- b) Notice to Quit—Refer to C.R.S. 13-40-107,108, or page 7 under Statutes in the Civil Handbook for timeframes to vacate.
- c) Notice to Vacate—The landlord wishes to terminate a tenancy even if the tenant has not violated the rental agreement. On month-to-month agreements, the tenant is given 10 days.

To determine which notice best suits the landlord's needs, they should consult an attorney or the courts.

2) Summons In Forcible Entry and Detainer (FED):

C.R.S. 13-40-104

If the tenant fails to comply with the Notice, the landlord files for an FED with the courts. This contains a summons for a court date to respond and a complaint specifying the grounds for actions. The FED can be served by any disinterested party, over the age of 18.

For the Sheriff to serve the Summons, there is a fee of \$35.00 plus \$0.50 per mile. We require one copy to serve and a second copy to keep for our records. For multiple tenants, a Summons must be served on each named defendant and the landlord charged accordingly. Posting can only occur after two diligent attempts have been made, if time

permits, and should only be done when the landlord wishes to just take back possession of the property without a money judgment. If the landlord does wish to obtain a money judgment, personal service must be made or the landlord loses that option.

If the judgment of the court is eviction, the judge issues a Writ of Restitution 48 hours after the judgment is entered. If the court fails to wait 48 hours, than the Sheriff must do so before serving.

3) Writ of Restitution:

C.R.S. 13-40-115, 13-40-122

The Writ of Restitution is an order from the court directing the Sheriff to oversee (not perform) a peaceful eviction of the tenant and their personal belongings. Only Sheriff's Officers can execute the Writ of Restitution. Fee for serving the Writ is \$60.00 per tenant, plus \$.50 per mile. The fee for the execution of the Writ (eviction) is \$200.00 plus mileage. Both fees must be paid for in advance. The landlord or representative should make out a separate check for the eviction fee as a deposit so that it can be returned if the eviction is not carried out.

Our procedure for carrying out the eviction is as follows:

a) The Civil Administrator will schedule a date and time for the eviction no fewer than 72 hours from the time of service. Our policy is to have the Writ served or posted no later than a Friday with the eviction scheduled for the following Monday or Tuesday. This allows the tenant a final chance to vacate over a weekend, in which case the \$200.00 eviction fee is refunded. The landlord is notified as soon as the Civil Administrator selects the day and time, and a Notice of Writ of Restitution letter is completed, which is to be served along with the Writ. This letter notifies the tenant(s) of when the Sheriff will return to restore the property.

b) The plaintiff, landlord or designee must be present at the time of the eviction in order for the premises to be returned to them. At that time the locks should be changed. It is the plaintiff's responsibility to secure a locksmith for this purpose. Failure of the landlord or designee to be present cancels the eviction and the \$200.00 fee will not be refunded. If there is a need to postpone or cancel the eviction, the plaintiff must present written notice to the Sheriff's Office during regular business hours, within at least one hour of the scheduled eviction time in order to be refunded, less a \$20.00 administrative processing fee.

c) While it is within the landlord's legal rights, the Pitkin County Sheriff's Office discourages leaving any possessions on the street as this may cause a public hazard. Unless the landlord cannot or will not take on such expense, we recommend they put the possessions into storage. However, the responsibility for the removal of all possessions is entirely that of the plaintiff's, and arrangements for movers must be made in advance of the eviction. The landlord must have enough movers to vacate the contents of home

within one hour for an apartment and two hours for a house. The civil deputy will not assist with removing possessions or with clean-up. The Sheriff's Office may seize any items deemed hazardous or illegal discovered during the eviction, and the civil deputy may radio for backup if such items are discovered.

d) For mobile homes, the removal of skirting and disconnection of sewer, electric, etc., must be completed before the arrival of the Deputy Sheriff in cases where the mobile home is to be removed from its location. We make no arrangements for temporary storage of the mobile home or other items left on the property. Storage, transportation and removal of the mobile home and any other property is solely the responsibility of the plaintiff and all such arrangements must be made prior to the eviction. If the mobile home is not being removed, the plaintiff must provide a locksmith, or a landlord's lock, to secure the premises.

The Sheriff's Office is immune from civil liability for any damage to a tenant's property that is removed from the premises during execution of the Writ. Landlords who comply with the sheriff's lawful directions are also immune from any liability per C.R.S. 13-40-122.

Failure to comply with any of our requirements for eviction may result in postponing or canceling the eviction at the Civil Deputy's discretion.

If there are further questions, please contact the Civil Division at (970) 920-5300, Monday through Friday, 8:00am to 5:00pm.

10/5/11