

Eviction Procedures and Instruction Sheet

- NOTICE:** The landlord first must give proper written notice to the tenant:
- A. For non-payment of rent, a 5 day written notice must be given to the tenant first, unless there is a clause in the lease stating otherwise.
 - B. For violation of lease, a 14 day written notice must be given to the tenant first to give the tenant sufficient time to correct the violation.
 - C. If the lease is up and the tenant refuses to vacate, a 30 day written notice must be given to the tenant.

FILING: Once proper written notice has been given, the landlord files the eviction with the proper court to be served by the constable of the court. The filing fee is \$40.00. Once served by the constable, the defendant will have 10 days to either move or request a hearing to the court. **** Please see attached SC law concerning service if defendant cannot be personally served.**

If the defendant requests a hearing, it will be scheduled by the court as soon as possible and the landlord will be notified.

WRIT OF

EJECTMENT: If the tenant fails to vacate or request a hearing within the 10 days, the landlord can then file for a Writ of Ejectment which is a \$10.00 filing fee. This is a 24 hour notice that is served on the tenant to vacate the property. If the tenant fails to vacate within the 24 hours then the constable or the Sheriff's Department will meet with the landlord at the said property and the tenant's belongings will be placed on the side of the roadway. The landlord is responsible for having a sufficient crew at the property to have the tenant's belongings removed. The constable or deputy does not remove any property, but is only there to maintain peace.

APPEALS: If the tenant appeals the decision, they have to file a written appeal with the Clerk of Court immediately. They will also have to post a bond, the amount to be determined by the judge, and the rent has to continue to be paid until the appeal hearing.

MOBILE HOME

PARKS: If the property is a mobile home park (with more than five mobile home lots), and the mobile home is the tenant's, and he is only renting the lot, then the tenant will have 10 days to vacate after the Writ of Ejectment is served.

Filing fees:

Eviction: \$40.00

Mailing fee for Eviction if applicable: \$5.00

Writ of Ejectment: \$10.00

PROCEDURE FOR SERVICE OF EVICTIONS

SC Code of Laws: §27-37-30 (C)(1) requires that two attempts be made to personally serve the defendant, and each attempt must be "separated by a minimum of forty-eight hours and must occur at times of day separated by a minimum of eight hours." For example: If the first attempt at service is made on Monday at 8:00 a.m., the second attempt could not be made earlier than Wednesday at 4:00 p.m. The person attempting to serve the rule must document the date and time of the attempts by affidavit or by certificate in the case of a law enforcement officer. On the first unsuccessful attempt to serve the rule, a copy of the rule must be affixed to the most conspicuous part of the premises. On the second unsuccessful attempt to serve the rule, the documentation of the two attempts to serve the rule must be attached to the copy of the rule when it is affixed to the most conspicuous part of the premises.

To complete service under this subsection, (C)(2) requires that a copy of the rule and the documentation of prior attempts at service be mailed by first-class mail to the defendant. The clerk must verify the contents and propriety of the mailing, and a fee as provided for in Section 8-21-1010(14) (\$5.00) may be collected for this service. The clerk's verification must be part of the record in the case, and service by first-class mail is not considered complete without the clerk's verification. Finally, (C)(3) provides that the ten days for the tenant to answer and show cause does not begin until the eleventh day after mailing. However, if the tenant contacts the magistrates court prior to the eleventh day, the specified time period for the tenant to show cause as provided in Section 27-37-20 must begin to run at the time of contact.

*****In other words, if the constable cannot make personal service and has to post the notice on the second attempt, the notice also has to be mailed to the tenant. If this occurs, the landlord will be required to pay a fee of \$5.00 for this service, and the tenant's ten days to vacate do not start until the 11th day after the mailing, making it a total of 21 days from the date of mailing. If the tenant contacts the court anytime before that, the ten days begins on the day of contact.**