



Orange County North Carolina Declaration of Tenants Rights and Obligations*

As a tenant you have certain rights and obligations under North Carolina law. *See N.C. Gen. Stat. § 42-41 (2012)*. At its heart, North Carolina landlord-tenant law entitles you to safe, decent, and sanitary housing. It also requires you to pay rent and to maintain the premises that you are renting. The purpose of this Declaration of Tenants Rights and Obligations is to help you understand the scope of your rights and obligations. This listing of tenant rights and obligations is not exhaustive and should not be used as a substitute for legal advice in the event a dispute arises between you and your landlord. Rather, it functions as a basic overview of your rights and obligations as a tenant in Orange County, North Carolina. Knowledge of your rights is the first step in being able to exercise and enforce them. (*See Resource List on last page and always put complaints or requests for repairs in writing and keep a copy*)

TENANT RIGHTS

1. Lease

A written lease is not required to establish a landlord tenant relationship under North Carolina law. The laws and protections that apply to tenants may apply to you even if you have an oral agreement with your landlord rather than a written lease. However, if you do have a written lease, the landlord must give you a full copy of the lease and provide you with time to review it before you sign it.

2. Security Deposit

Amount of your security deposit - The landlord can require you to pay a security deposit. The amount of the security deposit cannot exceed: (i) two weeks rent if you are paying rent on a weekly basis; (ii) one and a half months rent if you pay rent on a monthly basis and (iii) two months rent if you pay rent for longer than a month (e.g., you pay rent every two months or longer). *See N.C. Gen. Stat. § 42-51 (2012)*.

Location of your security deposit - The landlord must place your security deposit into a trust account with a licensed and insured North Carolina bank or savings institution. The landlord must inform you where your security deposit is being held within thirty (30) days of collecting your security deposit. *See N.C. Gen. Stat. § 42-50 (2012)*.

Return of the security deposit - When you move out, the landlord must return your security deposit to you within thirty (30) days, unless the landlord provides proof that the deposit is being used for a proper purpose such as: (i) repairing damages made to the unit other than reasonable wear and tear; (ii) rent that you owed but did not pay; (iii) any court costs the landlord had to pay if you were evicted and (iv) the cost of finding a new tenant if you left your apartment before the end of the lease. *See N.C. Gen. Stat. § 42-52 (2012)*. Finally, if the landlord fails to return your security deposit or to explain why any portion of your security deposit is not being returned, you may bring a claim against the landlord in small claims court to recover your security deposit. *See N.C. Gen. Stat. § 42-55 (2012)* and *see Resource Guide on last page*.

3. Decent, Safe and Habitable Housing

Tenant Rights - You have the right to decent, safe and sanitary housing in which the plumbing, electrical wiring, heating/cooling systems and smoke detectors work properly. *See N.C. Gen. Stat. §§ 42-42(a)(4) –(5) (2012)*. You also have the right to housing in which the common areas that are used by all tenants such as the stairs, hallways and sidewalks are in a safe condition. *See N.C. Gen. Stat. § 42-42(a) (3) (2012)* *see Resource List on last page*.

Landlord's Obligation - Your landlord is required to make any and all repairs necessary to ensure that your housing unit and the common areas are safe and fit. *See N.C. Gen. Stat. § 42-42(a) (3) (2012)*. Your landlord is also required to ensure that your housing unit complies with the local building and housing codes. *See N.C. Gen. Stat. N.C.G.S. § 42-42(a) (1) (2012) see Resource List on last page*. If you believe that your rental unit is not safe or habitable and may violate the local building or housing code, you have the right to have the property inspected for *free* by a local Housing Inspector or Code Enforcement Official *see Resource List on last page*.

4. **Late Fees**

Your landlord may charge you a late fee if your rent is late by five (5) days or more. *See N.C. Gen. Stat. § 42-46(a)*. However, if your rent is due in monthly installments, the late fee may not exceed fifteen (\$15.00) dollars or five (5%) percent of the monthly rent, whichever is greater. *See N.C. Gen. Stat. 42-46(a)(1)*. If the rent is due weekly, the landlord may charge a late fee not exceeding four dollars (\$4.00) or five (5%) percent, whichever is greater. *See N.C. Gen. Stat. 42-46(a)(2)*. Late fees can only be charged one time for each late rental payment and cannot be deducted from your next month's rent payment. *See N.C. Gen. Stat. 42-46(b)*.

5. **Quiet Enjoyment**

You have the right to peaceful, safe and quiet enjoyment of your home. *See N.C. Gen. Stat § 42-59.1 (2012)*. Essentially, this means that the landlord may make any necessary repairs, but the landlord may *not* unreasonably interfere with your "quiet enjoyment" of your home and must leave you alone while you are living in your rental unit.

6. **Discrimination**

The landlord may not discriminate against you as a tenant or prospective tenant because of your race, color, national origin, religion, sex, familial status or disability. *See Fair Housing Act, § 804; 42 U.S.C. 3604*. Discriminatory acts include refusing to rent to you; renting to you on unfavorable terms, conditions, or privileges; creating a hostile living environment; or refusing to make reasonable accommodations to give you an equal opportunity to use and enjoy the premises. (*see Resource List on last page*.)

7. **Domestic Violence Victim Protection**

A landlord cannot terminate, refuse to renew, or refuse to rent to you because you are a victim of domestic violence, sexual assault, or stalking. *See N.C. Gen. Stat. § 42-42.2 (2012)*. In addition, you have the right to request that the landlord to change your locks to prevent access by an alleged perpetrator of domestic violence. *See N.C. Gen. Stat. § 42-42.3 (2012)*.

8. **Eviction**

Eviction Process and Notice - You can *only* be evicted after a summary ejection proceeding before the court. Further, the landlord is required to provide written notice of the reason you are being evicted. *See N.C. Gen. Stat. § 42-25.6 (2012)*.

Grounds for Eviction

- **Failure to pay Rent** - If your landlord is attempting to evict you because you failed to pay rent, the landlord has to request that you pay the rent and must wait ten (10) days before filing a complaint against you with the court to have you evicted. *See N.C. Gen. Stat. § 42-3*.
- **Remaining in premises after lease ends** - If you remain in your housing unit after your written lease ends, or after your landlord tells you to leave if you do not have a written lease, the landlord must give you proper notice that you are required to move out. *See N.C. Gen. Stat. § 42-14*. The landlord must give you at least two (2) days notice if you pay rent on a weekly basis; seven (7) days notice if you pay rent on a monthly basis; one (1) month notice if you

have a yearly lease; and sixty (60) days notice if you are renting space for a mobile home. *See N.C. Gen. Stat. § 42-14.*

- **Breach of Lease** - Your landlord can evict you for violating the terms of the lease but *only* if there is a written lease agreement and there is a clause in the lease agreement that allows the landlord to end the lease if you violate the terms of the lease agreement.
- **Retaliatory Eviction**- Finally, your landlord cannot evict you for complaining about the poor conditions in your housing unit, requesting repairs, joining a tenant’s organization or trying to enforce your rights under the terms of your lease. *See N.C. Gen. Stat. § 42-37.1.*

Contesting Eviction - You have the right to contest the eviction in front of a magistrate judge, *See N.C. Gen. Stat. § 42-31(2012)* and in such cases, the landlord must prove that you should be evicted by a preponderance of the evidence. *See N.C. Gen. Stat. § 42-30 (2012).* (*See Resource List on last page*)

9. **Public Housing**

If you live in public housing or your rent is subsidized in whole or part by the federal government (e.g., you have a Section 8 voucher), you have additional rights under the law. Specified below are important rights that you should know about if you live in public housing or if you receive a federal subsidy or voucher to assist you in paying your rent.

Public Housing - If you live in public housing, your lease can only be terminated for serious and repeated violations of the lease or for other “good cause.” *See 42 U.S.C. § 1437d (1)(5) (2012).* In some cases, you may also be entitled to request a grievance hearing prior to your lease being terminated where you have the opportunity to hear about the reasons why your lease is being terminated and to present an argument as to why your lease should not be terminated. *See 24 C.F.R. §§ 966.50, 966.52(a), 966.53 (2012).*

Federal Rent Subsidy (e.g., Section 8 Voucher) - If your rent is subsidized in whole or part by the federal government (e.g., you receive a Section 8 voucher), your subsidy or voucher can only be terminated after you have been given notice and a hearing. *See 24 C.F.R. § 982.555 (c) (2) (2012).* During the hearing, you have the opportunity to present evidence as to why your subsidy should not be terminated.

To learn more about your rights if you live in public housing or receive a federal subsidy or voucher, please see the Housing and Urban Development (“HUD”) resident rights and responsibilities brochure, available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12162.pdf.

TENANT OBLIGATIONS

1. **Pay Rent**

You must pay rent on-time and in accordance with the lease terms. *See N.C. Gen. Stat. § 42-3.* If you fail to pay rent after your landlord has clearly and unequivocally demanded rent, ten (10) days after the landlord makes the request for you to pay rent, the landlord may begin eviction proceedings against you.

2. **No Exercising Self-Help or Rent Abatement Without Court Order** – You are prohibited from exercising self-help, in the form of withholding rent or otherwise, absent a court order. If your landlord won’t make repairs or is otherwise not abiding by the terms of the lease agreement, you must go to the court for help and cannot stop paying any portion of the rent without first obtaining approval from the court. *See N.C. Gen. Stat. § 42-25.6 and see Resource List on last page.*

3. **Maintain the Premises** – You must keep the premises safe and clean. You must not intentionally damage or allow your guests to damage the premises. You must dispose of all garbage in a safe and sanitary manner. *See N.C. Gen. Stat. § 42-43 (a) (1) –(6).*

4. **Notify Landlord in Writing of Need for Repairs** – You must notify the landlord in writing of any repairs or replacements that need to be made to the electrical, plumbing, sanitary, heating, ventilating, air conditioning system, smoke or carbon monoxide alarms. *See N.C. Gen. Stat. § 42-43 (7).*
5. **Vacate the Premises When Lease is Over** – You must vacate the premises upon the expiration of your lease term. *See N.C. Gen. Stat. § 42-26.*

If you have a complaint or believe your rights have been violated – always put it in written form (letter or email) and keep a copy for your records. Show dates and times where applicable. If your complaint or concern is not in a State Statute or not specifically addressed in this Declaration, it may be remedied by seeking advice from agencies on the Resource List.

Resource List

- a. NC Legal Aid – 919-542-0475 – www.legalaidnc.org – provides legal advice + representation for residents of Orange and Chatham County + forms are available on line for small claims court
- b. UNC Civil Legal Assistance Clinic – 919-962-1303 – www.law.unc.edu/academics/clinic - part of UNC Law School - provides legal advice and representation
- c. Orange County Housing, Human Rights and Community Development Department – 919-245-2487 – www.orangecountync.gov/housing Fair housing advice and information
- d. North Carolina Human Relations Commission (Raleigh) 919-789-5930 or 1-866-324-7474- www.doa.nc.gov/hrc - ensure equal opportunities in housing
- e. NC Justice Center – 919-856-2590 – www.ncjustice.org – advocacy for low income residents
- f. Chapel Hill Inspection Department – 919-968-2718 – www.town.ci.chapel-hill.nc.us/publicworks - will inspect for safe housing (i.e. bug infestation)
- g. Carrboro Inspection Department – 919-918-7333 – www.ci.carrboro.nc.us/dept.htm Planning Dept. will inspect for safe housing
- h. Orange County Inspection Department – 919-245-2600 or 245-2601- www.orangecountync.gov/planning
- i. Orange County Veterans Services – 919-245-2890 – www.orangecountync.gov/socsvcs/veterans_services.asp - housing and other advice/services for veterans
- j. Section 8 Housing Authority – 919-245-2490 – www.orangecountync.gov/housing
- k. Chapel Hill Public Housing Authority – 919-968-2850 - www.town.ci.chapel-hill.nc.us/
- l. OWASA – 919-968-4421 – www.owasa.org - water authority in Chapel Hill/Carrboro – check on leaks or reason for high water bill
- m. EmPOWERment Inc. – 919-967-8779 – www.empowermentinc-nc.org resource center for low-income housing; preventing foreclosures – fair housing workshops
- n. Orange County Justice United – 919-225-2986 or 919-358-5828 – www.ocjusticeunited.org works in the community for justice and the common good.

*** Prepared by the University of North Carolina School of Law Civil Legal Assistance Clinic, Orange County Justice United, EmPOWERment Inc. and the Orange County Human Relations Commission**