Legal Matters

Leases
A lease is a legal contract. Read every word. Where a lease purports to impose terms which contradict public policy, those terms are unenforceable. Lease can be written, oral, or comprised of both written and oral agreements. If, however, you and the landlord agree to modify a provision of a written lease agreement you should insist that the modification be written and signed. When a dispute over a particular agreement or provision arises, the courts will generally enforce the written version.

- **Long-Term Lease Agreements**
  Students who desire a long-term lease agreement should consult an attorney for assistance in drafting provisions which will allow an unexpected termination by the tenant upon reasonable notice. A rare instance when an oral rental agreement in not enforceable is when it purports to lease the premises for more than three years.

- **9-Month School vs. 12-Month Rent Liability/Subletting**
  A lease has a specific term defining the period for which you are assured of shelter and for which you are liable for rent. You are contractually liable for the rent to the end of the term even if you move out, unless the landlord agrees to some other arrangements. Most written leases provide for 12-month terms.

Many students will want to keep an apartment throughout the year, but sublet to a friend during the summer. Most leases will prohibit subletting without written consent of the landlord. It is important to know that, without an agreement with your landlord to the contrary, you as the primary tenant remain liable to the landlord for any rent or damages done by the sub-tenant.

- **Lease Termination**
  It is important to understand the proper procedure for terminating your liability under a new lease agreement. Some leases contain an automatic renewal clause which provides that both the landlord and tenant are bound to an additional term unless they follow the procedures set forth for proper notice of termination. Generally, the notice requirements for termination as set forth in the lease agreement will be enforced by the courts.

Local Government Regulations
New Hanover County has building codes, zoning powers, ordinances, and enforcement authority relevant to issues that affect new construction.

- **Building Codes**
  The city has code enforcement officers who, upon a tenant’s request, may inspect dangerous or substandard rental properties. When appropriate, they will require landlords to undertake repairs necessary to restore the property or issue orders of condemnation.

- **Noise Ordinances**
  All residents of New Hanover County, whether tenants or land owners, who reside in neighborhoods zoned for residential purposes, are prohibited from engaging in any activity producing noise in excess of 65 decibels in daytime and 50 decibels from 10 p.m. through 7 a.m. Citations for violations might be issued upon findings of loud and offensive noises even when the precise noise level is not measured. “Yelling, shouting, whistling . . . playing of any sound magnifying device . . . with such volume between 10 p.m. and 7 a.m., as to annoy or disturb the quiet, comfort, or repose of a reasonably prudent person . . .” shall be unlawful.

Please Note:
The City of Wilmington has a similar ordinance whereby all persons in residential areas are prohibited from engaging in any activity producing noise in excess of 65 decibels in the daytime between the hours of 7 a.m. and 11 p.m. (midnight on Fridays and Saturdays) and 55 decibels in the nighttime between 11 p.m. (midnight on Friday and Saturday) and 7 a.m.

Repeated violations of the city’s noise ordinance may subject offenders to a penalty of up to $500 and/or up to 30 days in jail. Renters can be responsible for any violations by their guests if the renter is present at the time of violation. (Wilmington City Code, Sections 6-26 to 6-32.*

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Tenant Rights & Responsibilities

The rules governing the relationship with your landlord and your neighbors are determined by certain rights and responsibilities specified in the North Carolina General Statutes, local governmental ordinances, and your particular lease agreement. Lease provisions which are not contrary to laws are applicable. However, it is important to know that lease provisions which violate the public policy of the state are void and unenforceable.

For instance, regardless of what rules the terms of your lease may purport to impose, your landlord may never:

- Lock you out of your dwelling without court process.
- Keep your security deposit without good cause.
- Fail to maintain the dwelling in a safe, habitable condition.

Habitability and Repairs

It is the landlord’s obligation to provide you with a residence which is safe and healthy place to live. This is known as “habitability.” Among other requirements, the landlord is required to:

- Comply with the current applicable building and minimum housing codes.
- Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.
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- Maintain in good, safe working order and promptly repair all electrical, plumbing, sanitary, heating, and other major utility systems and appliances supplied or required to be supplied by the landlord under the terms of your agreement and the law.
- Provide operable smoke detectors.

- To avoid deliberately or negligently defacing, damaging, or removing any part of the premises or to knowingly permit any person to do so.
- To comply with any and all obligations imposed upon tenants by applicable building housing codes.
- To be responsible for damage, defacement, or removal or property inside a unit with the exclusive control of the tenant unless such damage was the result of normal wear and tear, acts of the landlord, acts of third parties not invitees of the tenant, or natural forces.
- To notify the landlord, in writing, or the need for replacement of, or repairs to, a smoke detector. (Tenants shall replace batteries as needed.)

Maximum of Three Unrelated Occupants

The City of Wilmington’s zoning ordinance prohibits more than three unrelated persons from occupying a single dwelling. This ordinance is enforced in response to complaints. If a neighbor reports that there are more than three unrelated persons living in a particular dwelling, the city will send a code enforcement officer who, after determining the reports veracity, will order the extra persons to move within a specified period of time. A violation of the city’s zoning ordinance subjects the offender to a civil penalty of $100 per day for the first day and $200 each day thereafter.

Public Nuisance

Within the Wilmington City limits, property owner[s] and tenant[s] are required to keep property free from trash and garbage and maintain weeds and grass under a height of eight inches. **Any person who fails to maintain property in accordance with the requirements of the city code is subject to a civil penalty of $100 per day for each day that the condition continues to exist.** In addition, the city may abate the offending condition and place a lien on the property. (Wilmington City Code, sections 10-28 to 10-33.) Call the Wilmington Code Enforcement Office at (910)341-3266 for more information about property maintenance requirements.
Tenant Rights & Responsibilities Continued

- **Security Deposits**
  A landlord may not charge a security deposit in excess of 1 1/2 months rent in month-to-month tenancies, nor in excess of two months rent, for terms greater than month-to-month. At the time that you move out, the landlord has 30 days to return the security deposit or to provide you with a written account of how it was properly used for damages.

  A landlord may not debit your security deposit for normal wear and tear to the premises. It is strongly recommended that you and a witness thoroughly inspect the premises prior to move-in and prepare a list of every defect in the premises at that time. Then sign the list in the presence of a notary public who will acknowledge the date of your signature. Photographs taken at the time that you move in and at the time you move out are also helpful.

- **Eviction and Due Process Rights**
  A landlord may not lock or force you out of your dwelling. If you dispute the landlord’s right to terminate your lease agreement you may remain in possession of the premises until you are served with a court summons and given the opportunity to argue your side of the case.

- **Rights of Domestic Violence Victims**
  A landlord is required under North Carolina law to afford certain protections to victims of domestic violence. A tenant who is a victim of domestic violence and who otherwise complies with the applicable statute is entitled to have the locks to the dwelling unit changed.

North Carolina Alcohol Laws

The following are explanations of North Carolina state laws concerning alcohol. They are not the actual text and they are not intended to be complete.

- **Underage Drinking**
  The drinking age in North Carolina is 21.

  If you’re under 21, possession, consumption, purchase, or attempted purchase of alcohol (beer, wine, spirits, and mixed drinks) is illegal. You can be charged with this offense after consuming alcohol under the age of 21 with the odor of alcohol on your person. The penalties include fines and court costs (fines and fees can total $250 to $500 and the offender may have to complete up to 150 hours of community service). A conviction will result in a permanent Class 3 Misdemeanor criminal record. A report will be sent to the NCDMV and the DMV can revoke your driver’s license for one year.

  It is illegal to purchase or provide alcohol to a person under the age of 21. The penalties include fines and court costs (up to $2,000 and up to 150 hours of community service). A conviction will result in permanent Class 2 Misdemeanor criminal record. A report will be sent to NCDMV and the DMV will revoke your driver’s license for one year.

  It is illegal to use fake or borrowed ID to obtain or attempt to obtain alcohol, or lend your ID to someone for that purpose. The penalties include fines and court costs (up to $2,000 and up to 150 hours of community service). A conviction will result in permanent Class 2 Misdemeanor criminal record. A record will be sent to the NCDMV and the DMV will revoke your driver’s license for one year.

  The New Hanover County District Attorney’s office does not dismiss violations of these offenses, you will be required to appear in court.

- **Illegal Drugs**
  Possession of illegal drugs can send you to jail for up to 5 years and/or cost you fines of up to $2,000.
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- **Drunk Driving**
  Driving with any amount of alcohol in the body is illegal for anyone under 21, and can result in a one-year suspension of your driver’s license. People 18-20 years old may receive an alternative sanction of limited driving privilege.
  **Driving with a blood alcohol concentration of .08 is considered Driving While Impaired (DWI)** and carries a range of sentences and fines from 24 hours to 2 years imprisonment, as well as fines between $100 and $2,000. Your license will be suspended for at least a year or revoked permanently. If someone dies as a result of your impaired driving, you can go to jail for much longer.
  **It is illegal to have an open container of alcohol in a vehicle.**
  A person can be charged with a DWI with a blood alcohol concentration under .08 if the police observe erratic driving.

- **Aid and Abet Drunk Driving**
  If you allow someone to drive your vehicle and they are charged with an impaired driving offense, you can be charged with aiding or abetting an impaired driver even though you are not driving the vehicle.

- **Disorderly Conduct by Abusive Language or Gesture**
  If you intentionally cause a public disturbance by making or using any utterance, gesture, display, or abusive language which is intended and plainly likely to provoke violent reaction or retaliation and thereby cause a breach of peace is a Class 2 Misdemeanor.

- **Drunk and Disruptive (Public Drunkenness)**
  If you become disruptive in public (violent, insulting, using profanity, urinating) as a result of being drink, you can be arrested, and spend up to 30 days in jail.

- **Failure to Disperse**
  Assembly of 3 or more persons engaged in disorderly conduct or conduct creating the threat of riot and upon the command of officers to disperse who do not do so and remain on the scene can be charged with failure to disperse. This is a Class 2 Misdemeanor.

- **Liability of Other’s Drinking**
  If you give people alcohol at a party you host and let them drive home, you can be sued or even face criminal charges for damages or injuries they cause.

  In the State of North Carolina, if a law enforcement officer responds to a call where underage drinking is going on inside a residence, the person in charge of the residence can be charged with allowing underage drinking. Allowing underage drinking charges are a misdemeanor and become part of your criminal record and could affect your chance for future employment.

- **City of Wilmington Laws**
  Except as specifically permitted by the City Council, no person may consume or possess malt beverages, unfortified wines, or other alcoholic beverages on any facility, right-of-way, or other property owned or occupied by the City. You can be fined and spend time in jail.

  Officers responding to complaints of noise will investigate and take the appropriate action in accordance with Wilmington City Code of Ordinance. A violation of this ordinance can result in a civil penalty of $250 for the first offense and a $500 fine for any subsequent offense, including the possibility of an arrest or criminal citation. With any citations issued, the Wilmington Police Department will notify the owner of the violations and any co-signers responsible for the lease of the residence.

- **Most City Code Violations are Misdemeanors Under North Carolina General Statutes**
  Fire lane violations are $50 (parking in a fire lane).

  Fire hydrant violations are $100 (parking/blocking a fire hydrant).

  Public urinating charges result in mandatory court appearances.

  All of the city codes can be accessed through [www.wilmingtonnc.gov](http://www.wilmingtonnc.gov) or [www.uncw.edu/police](http://www.uncw.edu/police).
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**Talking Trash**

- **Trash Carts**
  Put out on your curb weekly. Check dates with your provider. Don’t overfill. Make sure to bring them in that night.

- **Extra Trash**
  Call (910) 341-7875 for bulky item pick-ups. This service is generally free.

- **Recycling**
  Ask for a recycle container and start recycling today.

- **Yard Waste**
  Picked up weekly. Do not mix with regular trash.

- **Fines**
  Pet Waste Pollution: $250 Fine.
  Yard Waste Pollution: $250 Fine.
  Illicit Discharge: up to $1,000 Fine for each offense.