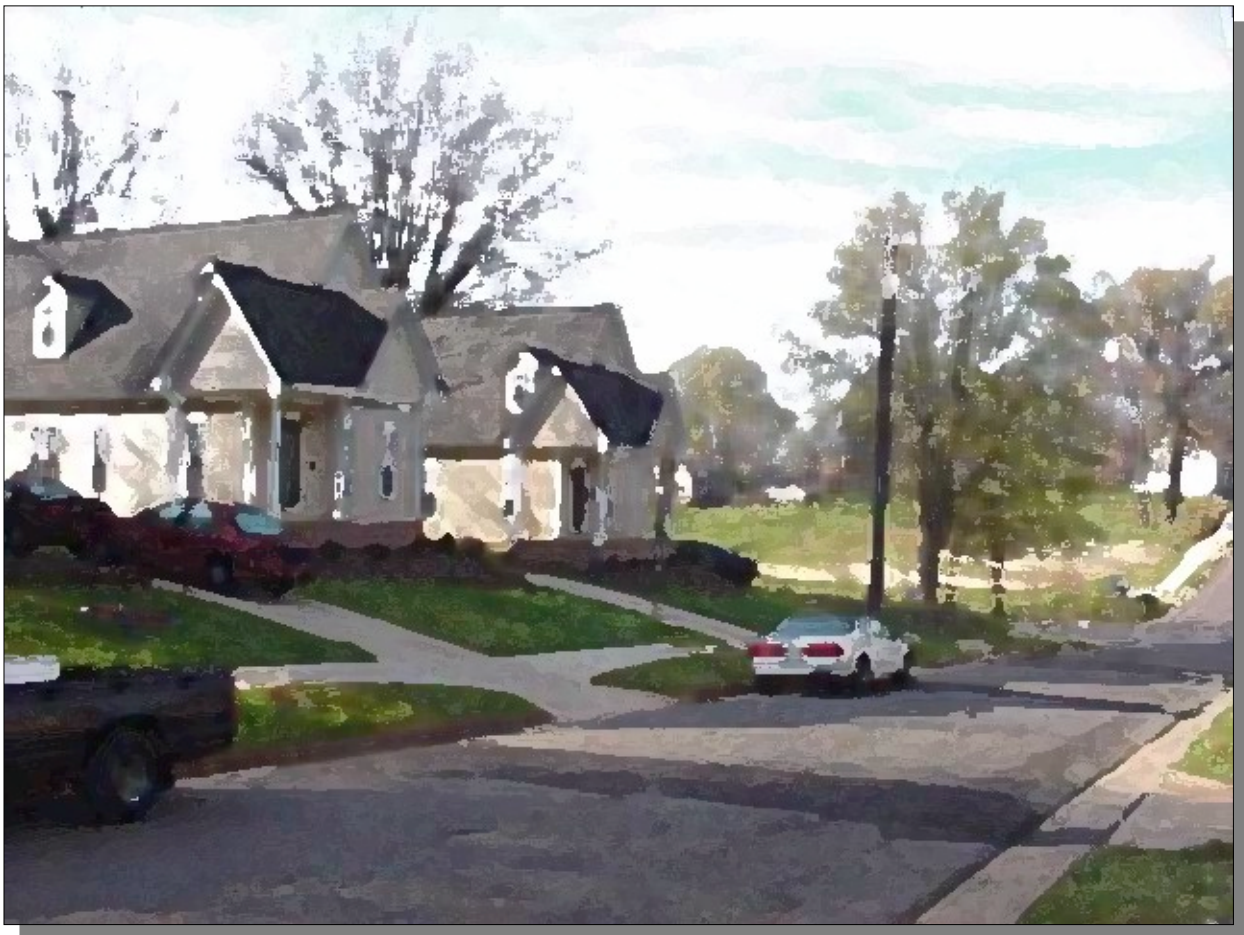




City of Salisbury

Tenant and Landlord Handbook



Draft Update 2/25/01

TABLE OF CONTENTS

INTRODUCTION & CONTACT INFORMATION	vi
Other Helpful Phone Numbers	vii
1. WHEN YOU ARE LOOKING FOR HOUSING	1
Where To Find Help	1
Inspecting the Property	1
Applying to Rent	1
Qualifying to Rent	2
Signing the Lease	2
2. LEASES	3
Read the Lease	3
Put all Agreements in the Lease	3
Terms of the Lease	3
Power of the Lease	4
Other Legal Standards	4
Tenancies	5
Renewal of the Lease	5
Holding Over After the Initial Term	5
Withdrawal	5
Breach of Lease	5
3. DEPOSITS AND FEES	7
Good Faith Deposit	7
Security Deposit	7
Location of Security Deposit	7
Permitted Uses of Security Deposit	7
Return of Security Deposit	7
Remedies for Failure to Return Security Deposit	7
When Property is Transferred	8
Late payment Charges	8
4. MOVING IN	10
Pay the Rent, the Deposit and the Fees	10
Inspect the Property	10
Fit and Habitable	11
Utility Services	11
5. MAINTENANCE AND REPAIRS	12
Renter's Responsibility	12
Owner's Responsibility	12
Renter's Rights	13
Owner's Rights	14
Making Improvements to the Property	14

6. MOVING OUT	15
Notice to Vacate	15
Notice Period	15
When the Lease Expires	15
When the Lease has not Expired	15
Restoring and Cleaning the Property	16
Final Inspection of the Property	16
Recovering the Security Deposit	16
Disconnecting Utility Services	17
7. FAIR HOUSING LAWS AND ORDINANCES	18
Federal Law	18
State Law	18
What is Prohibited in the Sale and Rental of Housing	18
In Mortgage Lending	19
8. EVICTION	20
No Self-Help Evictions	20
Grounds for Eviction	20
Defense of Retaliatory Eviction	20
Summons	21
Service of Summons	21
Trial by the Magistrate	22
Judgment by the Magistrate	22
Notice of Eviction	22
Disposal of Eviction Renter's Property	22
Cost of Eviction	23
Expedited Eviction	23
9. MAGISTRATE'S COURT	24
Legal Assistance	24
Limit of Claims	24
The Trial	24
When you are Sued	25
Appeal	25
10. HOUSING CODE OF THE CITY OF SALISBURY	26
Minimum Standards	26
Compliance	26
Structural Conditions	26
Egress	27
Plumbing System	27
Heating System	27
Electrical System	27
Ventilation and Lighting	28
Minimum Window Area	28
Ventilation in Habitable Rooms	28
Bathrooms	28
Space; Use; Location	28
Calculation of Floor Area	28

Room Sizes	28
Ceiling Height	29
Use of Cellars For Living Purposes	29
Use of Basements For Living Purposes	29
Maintenance	29
Exterior Foundation, Walls and Roof	29
Interior Floor, Walls and Ceilings	29
Windows And Doors	29
Stairs, Porches and Appurtenances	29
Bathroom Floors	29
Supplied Facilities	30
Drainage	30
Noxious Weeds	30
Screens	30
Rodent Control	30
Rubbish Storage and Disposal	30
Garbage Storage and Disposal	30
Responsibility For Extermination	31
Abandoned Houses	31

INTRODUCTION & CONTACT INFORMATION

This booklet is intended to be used as a tool for landlords and tenants both as a guide for recommended practices as well as quick reference to applicable state and local laws. The information here originates from a number of different sources including North Carolina State Statutes, Fair Housing Law, and the City Code of the City of Salisbury. All information is summarized and presented in a condensed and easy to read form. Consequently, not all information for each topic has been included in full detail. Please consult the referenced section of the NC General Statutes or City of Salisbury Housing Code for the most complete and up-to-date information on each topic.

For more information on the various topics included in this booklet or for general service information, please contact:

City of Salisbury

Emergency – Fire, Police, Ambulance	911
City of Salisbury	(704) 638-5270
Police Department (Non-emergency)	(704) 638-5333
Fire Department (Non-emergency)	(704) 638-5351
Minimum Housing Code	(704) 638-4468
Public Nuisances	(704) 638-5262
Sanitation	(704) 638-5256
Community Development	(704) 638-5245
City Bus Schedule	(704) 638-5252
Animal Control	(704) 638-5333
Parks and Recreation	(704) 638-5291

Other

Rowan County Sheriffs Office	(704) 636-1011
Crime Stoppers	(704) 633-5388
Salisbury Housing Authority	(704) 636-1410
Rowan Housing Authority	(704) 633-8380
Board of Realtors	(704) 636-1811
Magistrates Office	(704) 636-9881
NC Lawyer Referral Service	1-800-662-7660
Legal Assistance	1-800-722-1740
Better Business Bureau	(704) 527-0012

Utility services numbers are located in the *Moving In* section of this guide.

Other Helpful Phone Numbers

Listed below are some of the most requested phone numbers for newcomers to Salisbury and Rowan. Rowan Information & Referral Inc. (638-3131) can provide information on any of these services.

Emergency Services

Poison Control	(704) 355-4000	Child Abuse & Neglect	(704) 633-4921
District Attorney's Office	(704) 639-7515	Environmental Emergency	800-424-8802
NC Center for Missing Children	800-522-KIDS	Rowan Regional Medical Center	(704) 210-5000
Drug Helpline	800-378-4435	N.C. State Highway Patrol	(704) 637-0207

Government Offices/Services

Board of Elections	(704) 633-6231	Building Inspector	(704) 636-8747
Driver's License	(704) 633-5873	Driver's License Tag Bureau	(704) 633-5312
Employment Security Comm.	(704) 639-7529	Rowan Agricultural Ext. Service	(704) 633-0571
Veteran's Service Officer	(704) 638-3198	Social Security Administration	(704) 633-9432
Register of Deeds	(704) 636-3102	Tax Collector	(704) 633-3871
Rowan Vocational Workshop	(704) 637-9592	Convention & Visitors Bureau	(704) 638-3100

Health & Social Services

Department of Social Services	(704) 633-4921	Health Department	(704) 633-0411
Substance Abuse Services	(704) 637-7797	Alcoholics Anonymous	(704) 636-1361
Adolescent Pregnancy Prevention	(704) 630-0481	Centerclair Nursing Home Placement	(336) 249-7057
Tri-County Mental Health Center	(704) 633-3616	Veteran Administration Hospital	(704) 638-9000
Emergency & Short Term Care	(704) 633-4921	Hospice of Rowan County	(704) 637-7645
Association for Retarded Citizens	(704) 637-1521	Ruffy-Holmes Senior Center	(704) 633-7862

Consumer Services

Salisbury-Rowan Economic Development Commission	(704) 637-5526	Salisbury-Rowan Chamber of Commerce	(704) 633-4221
Salisbury-Rowan Community Service Council	(704) 633-6633	Salisbury-Rowan Merchants Association	(704) 636-3629
Rowan Public Library	(704) 638-3000	Consumer Credit Counseling	(704) 636-0089
Salvation Army	(704) 636-6491	YMCA	(704) 216-9622
United Way	(704) 633-1802	United Arts Council	(704) 638-9887

Youth Organizations

Boy Scouts of America	(704) 982-0141	Girl Scouts	(704) 537-7974
Juvenile Services	(704) 639-7515	Rowan County Youth Services	(704) 633-5636

Educational Services

Rowan-Salisbury Schools	(704) 636-7500	Catawba College	(704) 637-4111
Livingstone College	(704) 216-6000	Rowan-Cabarrus Community College	(704) 637-0760

1

WHEN YOU ARE LOOKING FOR HOUSING

You can gain invaluable knowledge and experience about renting by talking to friends and co-workers about their rental experience. They can help you to avoid many problems in selecting housing. They may be able to refer you to the kind of place you want. By learning about other people's experiences you can gain information that would take a lifetime of experience to learn.

Where to Find Help

Signs advertising vacancies are one of the best ways to locate housing when you have decided on an area or neighborhood. A trip through the area you want to live in will often discover some "For Rent" yard signs that will be of interest.

Classified newspaper advertisements are another source of information. These ads list property available from private owners as well as from real estate companies. If you know where you want to find housing, these ads will help to narrow your search. These ads will also list special offers being made by some apartments to promote leasing.

Real estate agencies which rent property and apartment rental offices are the places to call when you know what you want and how much you can pay for housing. These are listed in the yellow pages of the telephone book.

Once you have decided on a few possibilities, call the rental offices or agencies and determine whether vacancies exist. If you are interested in seeing an apartment, make an appointment to see the property.

Inspecting the Property

When you inspect the apartment or house, be sure to look carefully at everything. Make sure everything works, including the refrigerator, stove, toilets, heating and air conditioning. Check the doors and windows to see if they are tight and that the locks operate. Look for damage to the walls, ceiling, rugs, floor (and furniture, if the apartment is furnished). Ask about repairs that you think are needed. Repairs can be made more easily before you move in than after. Have a definite understanding about things that will be done and when they will be done and things that will not be done that you want. That will enable you to decide whether you want to apply for that apartment. There are no rent control laws in North Carolina, and rents will depend upon supply and demand. Occasionally, special offers are made by owners and managers to rent vacant units. These may be in the form of a reduction in the rent for a specified period of time, a short-term lease, or other incentives. Always ask whether any special offers are being made. Be sure to find out when the offer expires, so that you can take advantage of it if you decide to apply.

Applying to Rent

If you decide to apply to rent that apartment or house, be sure that any oral agreements about repairs or other work on the unit are put into writing, preferably on the application. But, if not, a tenant's rights are still protected by law. If you cannot see the apartment you are interested in and are shown one similar to it or a model, arrange to come back when the unit you are interested in is ready to be shown. If the unit is rented in the meantime to someone else, at least you will not have rented it sight unseen.

When you speak to the rental agent, make sure you tell him about your needs in housing and ask about their procedure for processing applications and qualifying applicants. Find out how long it will take to get possession of the property, what fees are charged, exactly what deposits are required, how much the rent is, the cost of utilities, and whether there are any other charges such as parking, use of the pool and recreation center, etc.

Read the application before you sign it. Make sure the information you have provided is accurate. Also, make sure you understand the obligations you are accepting when you sign the application. These obligations generally include the payment of an application fee (or credit check fee). The security deposit, or part of it, may also be required at the time of application. This may sometimes be referred to as a "good faith" deposit to guarantee that the applicant will rent the property if it is offered. However, any such deposit which is to be used for a security deposit is subject to the laws regulating security deposits (*see the section on Deposits and Fees*). Such deposits must be refunded if the applicant decides not to rent. The property owner may, however, retain a portion of the deposit to cover any actual damages or losses suffered, such as lost rent due to the fact that the property was reserved for the applicant. State law does not allow a "good faith" deposit to be automatically forfeited if the applicant does not agree to rent.

Qualifying to Rent

How much can you afford for an apartment? A general rule of thumb used by many property owners and managers is that the tenant's monthly rent not exceed 25% of his or her monthly income. Another way that rule is often stated is that one week's income must equal the monthly rent. If you are married and both you and your spouse work, the income of both husband and wife can be counted in determining total income. However, if you live with a friend or a relative other than a spouse, each person may be required to qualify separately and the income of each person must meet the rule of thumb or whatever standard is required by the owner or property manager. Income includes wages and regular payments such as alimony, child support, social security, etc. Proof of income will be required, so be prepared to provide records showing your total income.

Standards for qualifying applicants and the procedure used to qualify applicants and lease property may also differ in some details. Be sure to find out the specific standards and procedures followed by the owner or manager you seek to rent from. Generally, however, the standards include an adequate income, a satisfactory credit record and an acceptable rental record. In some cases, if an applicant does not qualify on one of those standards, a co-signer who can qualify may be required, or the applicant may be required to have a savings account of an amount sufficient to cover the rent for the lease period.

Your employment record, your credit record and your rental record may be checked. This may be done by the property owner or manager directly, or by another agency which provides such information to owners and managers for a fee. The Credit Bureau of Rowan County also provides credit record information on applicants to property owners and managers. This agency will inform a rejected applicant, upon request by the applicant, of the information they provided to the property owner or manager.

Signing the Lease

The decision to rent an apartment is usually based on the information obtained during the qualifying process, as well as any information obtained directly by the owner or manager. If you qualify, you will be notified that the housing is being offered to you and to arrange for the signing of the lease and payment of the first month's rent and any deposits required. (*See section on Deposits and Fees*). You must be prepared to make all payments required at the time the lease is signed. **Do not sign the lease without reading it thoroughly.** The lease obligates you to pay rent for a specified period (the term of the lease) and to abide by certain stipulations in the lease. It also guarantees you occupancy of the housing for the term of the lease, providing you fulfill your obligations and the owner or manager fulfills his. All leases are not alike and you should not assume that you know what is in it without reading it (*see section on Leases*).

A lease is an agreement between an occupant of rental property and the owner of the property and the owner's agent or the management company which represents the owner. Generally the provisions of a lease are binding, but some parts of a lease may be unfair and illegal. Leases may be written or oral or a combination of each. Oral leases and combinations of oral, and written leases are enforceable just as a written lease is, except that a lease for a period of longer than three years must be written. However, **it is recommended that all terms of a lease be put in writing and signed by all parties** so that there is no misunderstanding of what the lease provides.

Read the Lease

Always read the lease before signing it. If you do not understand any part of it, ask for an explanation in terms you understand. Do not hesitate to ask questions about it before signing it. Remember, you will be required by law to do whatever the lease says after you sign it (provided it is not against state or federal law). Do not sign a lease with any blank spaces. Make sure all of the information required by the lease is written in before signing it, especially the amount of rent, the security deposit, and the exact dates of the lease term. If some blanks do not require information, strike through them before signing the lease.

Put All Agreements in the Lease

If there is a written lease, don't accept any oral promises or statements as part of the lease unless they are written into the lease form and initialed by you and by a person who has the authority to act for the owner or the property agent before signing it. If there are parts of the lease which are objectionable and which the owner or his legally authorized representative is willing to omit, make sure that those parts are crossed out and initialed by all parties of the lease before signing it. Oral agreements which contradict a written lease will not be enforced by the courts. Written or oral agreements made after the original lease is entered into will be enforced only if all parties to the lease benefit from the agreement.

Terms of the Lease

The terms of the lease are the specific agreements made between the parties to the lease. In order to create a valid lease and tenancy, a lease must have at least four key terms:

1. A clear description of the parties to the lease, including their names. The owner of the property does not have to be named in the lease if the owner's duly-authorized agent is named.
2. A clear description of the dwelling to be occupied, including the address.
3. The specific amount of money to be paid by the lessee or occupant to rent the dwelling. If the lease creates a tenancy for years, the total amount of rent to be paid for the initial term will usually be stated in the lease as well as the amount of the monthly payment. If a security deposit (or any other refundable deposit) is required, the amount of the deposit and the place of deposit must be stated in the lease.
4. The initial term of the lease or tenancy, that is, the dates when the tenancy begins and ends (if the lease created a tenancy for years) or the period of time of the tenancy (monthly or weekly, if the lease creates a periodic tenancy).

All occupants (sometimes called lessees) must be named in the lease in order for them to be legally obligated to pay the rent and meet the other terms of the lease. Normally, this will include all adults residing in the dwelling rented. Leases usually also require that all other occupants of the dwelling be named in the lease, even if they are not legal parties to the lease, including other adults and children. Leases usually provide that the lessee(s) and other occupants named in the lease are the only persons who may occupy the dwelling rented or use the facilities available to the occupants unless prior written consent is granted by the owner or owner's agent. It is important to remember this, because the lessee may be in violation of the lease and subject to eviction if anyone other than an occupant named in the lease lives in the dwelling on a regular basis or for any extended period of time.

Power of the Lease

The terms of the lease generally determine your rights. Courts will enforce the lease as written except where it is illegal. A lease cannot require any party to the lease to do anything unlawful or immoral. For example, the lease may not shift the landlord's duties to repair back on the tenant. Legal advice may be required to determine whether a specific lease provision is in violation of the law. Even if one provision of a lease is found to be unlawful, the other provisions are still in effect.

Other Legal Standards

When the lease is silent or does not cover a specific issue in a tenancy, other factors may provide a guide to what is valid. These include:

1. State landlord-tenant law (NC General Statutes, Chapter 42). There are certain things required of all parties to the lease by state law, whether they are stated in the lease or not. These are set forth in the appropriate sections in this handbook.
2. The housing code or building code of the local area. These vary considerably from place to place. However, the property owner is responsible for maintaining the dwelling according to the requirements of the local housing code, whether the lease says anything about it or not. For example, if screens are required at all windows by the housing code, they must be provided, even though the lease says nothing about screens. (*See the sections on Housing Codes*).
3. Court decisions. State courts may interpret state law in specific cases or controversies if the law is not specific enough. Courts may, therefore, interpret the meaning of the terms of a lease if those terms are not otherwise defined and there is a difference of opinion about it among the parties to the lease.
4. Agreements between the parties to the lease other than those in the lease. Such agreements, whether oral or written, must provide an actual exchange of benefits between all parties if made after the lease is signed. All such agreements should be in writing.
5. Conduct of the parties. Even unspoken agreements may bind the parties if the agreement amounts to acceptance of the conduct or habitual practice of one of the parties. For example, if there is no stated date for payment of the rent, the court may determine a reasonable due date, based on the due date normally used by the property owner for other residents. But, the tenant's acceptance of a dwelling in bad condition does not mean the tenant has legally agreed not to get repairs because the law states the landlord cannot be released from his obligations.

Tenancies

The lease creates a tenancy (a legal right to occupy a dwelling) and describes the kind of tenancy it creates. It may be a tenancy for years (that is one for a specified time) or a periodic tenancy (one from month-to-month or week-to-week). The length of the tenancy is the lease term of the lease. When that period or term ends, the rental agreement or lease normally also ends; however, many leases or rental agreements provide for automatic renewal of the lease either on a month-to-month basis or for the same period as the initial term (the original lease term.) If the lease is renewed, all of the terms of the lease or rental agreement continue to apply, unless the parties amend the terms by words or actions. If one party gives notice of a change in the lease at the end of the initial term, the other party (or parties) has the option of accepting the renewal of the lease under the new terms or withdrawing from the lease at the end of the initial term with no penalty.

Renewal of Lease

§42-26

A renter has no legal or equitable right to renewal of a lease if there is no provision in the lease to that effect. Even an agreement not in the lease to give the renter the option to renew the lease is not binding on the owner or manager unless the renter has given the owner something in exchange for the option.

Holding Over After the Initial Term

§42-26

If the lease does not provide for the renewal or extension of the term and the renter remains in possession of the property after the expiration of the initial term of the lease, the renter is considered to be "holding over." The owner or manager may either accept the continued occupancy of the renter or may take action to evict. If the renter holds over and pays rent for another period, the landlord has accepted the renter.

When a renter who has rented for a definite term of a year or more holds over and is accepted by the owner or manager, the lease automatically renews on a year-to-year basis.

Withdrawal

Leases often provide for withdrawal from a lease before the end of the initial term, under certain penalties. For example, if the initial term is for one year, the resident may be required to pay rent for the first 120 days, whether he/she stays that long or not, even if the owner or agent agrees to release the resident from the entire term rent payment. However, if the renter informs the landlord that he is moving out early, the landlord must make a good faith effort to mitigate his damages. Some leases permit early release only if the resident can prove that his/her employer has transferred him/her to another location at least 50 miles away. The proof required is usually a written statement by the resident's employer.

Breach of Lease

§42-26

A breach of lease exists when the renter, owner or manager fails to fulfill any term of the lease required of that party. The owner may evict the renter for breach of the lease only if the lease provides for repossession by the owner or manager if that term of the lease is broken. A breach of lease also exists, even if it is not stated in the lease, if the renter fails to pay the rent within ten days of the date payment is

demanded. A lease may, however, provide for repossession for nonpayment sooner than ten days after the due date.

After a breach of lease by the renter, the owner or manager cannot accept rent for the period following the breach, if the owner or manager intends to evict the renter. The right to repossess the property because of that breach is waived if the owner or manager continues to accept rent due thereafter. However, the owner is entitled to payment for the use and occupation of this property, and the renter is liable for that payment.

When you rent a house or an apartment, certain deposits and fees in addition to the rent will usually be required. Generally, a **deposit** is an initial charge required in order to guarantee the return of property in good condition and is returnable when the property is returned or vacated in good condition. However, if there is any damage to or loss of property by the renter, the deposit may be used to pay for necessary repairs or replacement. A **fee**, on the other hand, is a non-refundable charge for services or for use of property. Some non-refundable charges may be called "deposits" even though they are actually fees.

Both deposits and fees usually must be paid before you move into rented property. Therefore, you should ask about all deposits and fees at the time you inquire about vacancies. This will let you know exactly how much money you will need to pay before you can move in. You should also understand clearly the terms and conditions under which deposits will be returned. Be sure to get receipts for all deposits and fees paid.

The expected types of deposits and fees are explained below.

Good Faith Deposit

Some applications refer to a "good faith" deposit to guarantee that you will accept the property (providing it is as advertised) if you qualify for it. Such a deposit, if it is to be applied to the security deposit, is subject to all limitations provided in state law for the use and return of security deposits (*see Security Deposits*). It is not automatically forfeitable if the applicant decides not to rent. The property owner may, however, retain any part of it to the extent of actual damages or loss, such as lost rent.

Security Deposit

§42-50, -51

This is the major charge, in addition to the rent and utilities, which you will have to pay before moving in. This deposit is charged to protect the property owner and manager from loss due to the renter's actions. The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month.

Location of Security Deposit

§42-50

State law requires that the property owner or manager inform you in writing within thirty days after the rental or lease period begins where your security deposit is being held. This information would include if it is a licensed, insured bank or savings institution in North Carolina, or what company in North Carolina is insuring your deposit, or if it is being held in a bank outside the state. This information may be stated on the lease form.

Permitted Uses of the Security Deposit

§42-51

Your security deposit may be used by the property owner or manager to cover the following losses when you move:

1. Unpaid rent which you owe. Such rent charges should be pro-rated to cover the actual time of possession.

2. Repairs for actual damages to the property for which you are responsible. State law prohibits using security deposits to cover maintenance and repairs due to "normal wear and tear". However, the law does not define this term. The cost of cleaning and repainting, except where the property is unusually dirty, would probably be considered "normal wear and tear" and not chargeable to a security deposit. However, the cost of repairing a broken window would probably be charged against the security deposit. (*See the section on Moving Out regarding check lists*).
3. Lost rent and/or the cost of re-renting, not to exceed actual damages or loss, due to your breaking the lease by moving out before the end of the term or without proper notice. (*See the section on Moving Out regarding giving proper notice*). If you stay until the end of your lease or rental period and give proper notice before moving, you will avoid this charge.
4. Unpaid bills for which you are responsible, such as utility bills, which may place a lien on the owner's property.
5. Court costs due to an eviction proceeding against you where the court decided you were obligated to pay court costs.
6. Costs of removal and storage of your property after you have been evicted.

Return of the Security Deposit

§42-52

Security deposits must be refunded within thirty days after you return possession of the property to the owner, unless the owner uses some or all of it to cover losses which can be charged to you. In that case, the remainder of the deposit must be returned along with an itemized statement of the charges made against the deposit within thirty days.

Be sure to leave your forwarding address with the property owner or manager when you move so that your deposit may be returned. If the property owner or manager does not know your new address, the deposit must be held for thirty days after you move out. It may then be used for any of the reasons permitted by law listed above. After six months, the security deposit may be kept by the property owner or manager if the renter has not claimed it or given the owner/manager a forwarding address.

Remedies for Failure to Return Security Deposit

§42-55

If you do not receive your deposit and/or a statement from the owner or manager within thirty days after you move, write him requesting it. Disagreements about your refund may be avoided by discussing it with the owner or manager before you move and by using a checklist when inspecting the property when you move in and when you move out. (*See the section on Moving Out*). However, one's liability is not limited to the amount of the security deposit.

If the owner fails to account for and/or return the security deposit as required by law, the renter may take action to require the owner to account for and/or return the deposit. The renter may also take action if there is any unresolved dispute about the charges made against the security deposit. (*See Magistrate's Court*).

When Property is Transferred

§42-54

If the property you are renting is sold or management is changed, the former owner must, within thirty days, either return the security deposit to you (with deductions permitted by law as stated above) or transfer the deposit to the new owner or manager and notify you of that fact. If the deposit is transferred, the new owner has thirty days to notify you of the location of your deposit.

Late Payment Charges

§42-46

The owner or manager may assess a charge for failure to pay the rent on time. This fee or charge will be determined by the owner or manager and must be stated in the lease or rental agreement. This late fee cannot exceed fifteen dollars (\$15) or five percent (5%) of the rental payment, whichever is greater. Be sure you know the date when the rent is due each month and pay it before that date to avoid late charges. Even if you have a good excuse for late payment you may still be charged the late payment fee.

Once you have signed a lease to rent an apartment or house, there are some things you must do and some things you should do before you move into your new home.

Pay the Rent, Deposit and Fees

§42-41

Any deposit, fees and the first month's rent will normally be required when you sign the lease or take possession of the property. The lease is a legally binding contract which requires that you pay the rent for the full term of the lease, as well as all required deposits and fees. (*See the sections on Leases and Deposits and Fees for more information about these matters*). You should ask before signing the lease or agreeing to rent, about all charges you will have to pay before moving in, as well as all charges required while you are a resident. Be sure to get and keep receipts for all payments indicating the date and purpose of the payment.

Inspect the Property

You should make a thorough inspection of the property rented in order to verify its condition before you move in. The purpose of this inspection is to make sure that any damage or faulty conditions existing before you move in are repaired and are not charged to you when you move out. This is a different and more detailed inspection than you made (or should have made) when you first looked at the property. Then, you were examining it for space, general appearance, cleanliness, and the working order of all equipment. (*See the section on Looking for Housing*).

Two things are important to make this inspection worthwhile and to protect you from charges for damage not caused while you lived in the housing.

1. Request the property owner or manager to inspect the property with you. This will enable both of you to discuss and agree on the condition of the property at the time you take possession. If the owner or manager or an agent of theirs cannot make this inspection with you before you move in, try to arrange an inspection with them as soon as possible after you move in. If you are unable to do so, ask another person (not a relative or any person you are living with) to accompany you on the inspection as a witness.
2. Use a checklist which lists every item inspected and its condition. When you inspect an item, indicate its condition on the checklist. If it is in good condition and working order, write "no damage" or "in working order." If there is damage, describe the damage. For example, if a doorknob will not turn, write "door knob will not turn" on the list. Be sure to identify which door.

When you have marked the condition of everything, sign the list and date it. Have the property owner or agent or the witness who inspected the property with you sign it and date it. Give a copy to the owner or manager and keep the original in a safe place. When you move out, you should repeat the procedure, using the original checklist to determine any damage caused while you rented the property and for which you will be charged. (*See the section on Moving Out for more information*).

If you follow this procedure, you should not have any disagreement with the owner or manager about the refund of your security deposit when you move out. (*See section on Deposits and Fees*).

Fit and Habitable

§42-42

If for any reason the property is not "fit and habitable" or is not in compliance with the housing code, notify the owner or manager immediately when you are ready to move in. You do not have to live in property that is unfit for habitation. The law does not spell out the definition of "fit and habitable". However, unusually dirty property, or an inoperable furnace (when heat is needed), or similar major problems may make property uninhabitable. The law requires everything to be in safe and good working condition. Discuss the situation with the owner or manager and try to agree on solution to any bad condition. If the property is unfit for habitation and you choose not to move in until the condition is corrected, you do not have to pay rent for the time the apartment is not habitable. If you move into the property despite its not being habitable, you will have to pay some rent for that period. (See the discussion of Renter's Remedies).

If the property owner or manager does not agree that the property is unfit to live in, legal action may be necessary to resolve the dispute. The court will then have to decide whether the property is "fit and habitable." Either party may initiate such action. (See the section on Magistrate's Court for the procedure for filing a complaint).

Utility Services

If you must provide for your own utility service, you will have to arrange to have those services turned on. These services may require a deposit as well as a turn-on charge in some instances. The numbers to call for information and for specific charges are shown below:

Water & Sewer	City of Salisbury	(704) 638-5390
Electricity	Duke Power Company	(704) 636-1444
Natural Gas	Piedmont Natural Gas Company	1-800-752-7504
Propane Gas	Carolane Propane Gas, Inc.	(704) 636-6391
	PNG Propane Company	(704) 637-2725
Telephone	Bell South	(704) 780-2355
Heating Oil	Atlantic Oil Service	(704) 633-0952, or (704) 633-2824
	Oil Products Co.	(704) 633-2786
	Superior Oil Co., Inc.	(704) 636-4629
Cable TV	Time Warner Cable	(704) 633-5484
	Repair & Service	(704) 633-5506

5

MAINTENANCE AND REPAIRS (including Renter's and Landlord's Rights and Responsibilities.)

State law places certain responsibilities upon both the property owner/manager and the renter to maintain and repair damage to the property. These responsibilities are mutually dependent; that is, both the property owner and the renter must fulfill their duties in order for the other party to be required to fulfill his duties.

Renter's Responsibility

§42-43

1. As the occupant of the property, you are responsible for maintaining it in a clean and safe condition.
2. You must not create any unsafe or unsanitary condition in any common area of the owner's property. Common areas are the facilities that are available for use of all renters (swimming pool, recreation center, hallways, etc.)
3. You must dispose of trash and garbage in a clean and safe manner.
4. You must keep all plumbing fixtures as clean as their condition permits.
5. You must not deliberately or negligently damage, destroy or remove any of the owner's property or knowingly permit any other person to do so.
6. You must comply with all obligations imposed on renters by local housing codes. (*See the section on Housing Codes.*)
7. You are responsible for the cost of repairing all damage to property in your control, unless the damage was due to "ordinary wear and tear", defective products supplied or repairs authorized by the landlord, or damage caused by persons or conditions beyond your control.
8. You must notify the property owner or manager of all repairs needed which are not your responsibility and that arise after you take possession, including repairs for or inoperable smoke detectors. You must also notify the owner in writing of any needed repair to an appliance provided by him unless the housing code does not require it.

Keep a copy of any written notices to repair that you send to the owner or manager. Some property owners and managers provide the renter a copy of the work order for repairs to be made. Keep this for your records.

Owner's Responsibility

§42-42

The owner is required by law to:

1. Comply with all applicable building and housing codes. In Salisbury, such codes specify most of the conditions required to keep property fit and habitable. For example, they require the owner to have all plumbing, heating, and electrical systems working properly.

2. Keep the property in "fit and habitable" condition. (This term is not defined in the law. Its meaning would depend upon the judgment of the court in specific decisions and the requirements of local codes where they apply).
3. Keep all common areas of the property in safe condition.
4. Maintain in good and safe working order all electrical, plumbing, heating and other facilities provided or required to be provided by the owner. (This section does not require the owner to provide such facilities, but, if local codes or a rental agreement requires the owner to provide them, he must maintain them)
5. Provide operable smoke detectors.

The owner is not released from these obligations even if the renter accepts and lives in the owner's property when it is in need of repair or does not meet local building and housing code standards. These obligations override any agreements to the contrary, because it is considered in the public interest to maintain safe and habitable conditions. However, the renter is obligated to continue paying rent if he occupies unfit property. But, the tenant may not be obligated to pay full contract rent. If the renter believes that is true, he may ask the courts to reduce the rent or to relieve him from having to pay all or part of the rent during the period when the property was not repaired. At any rate, the renter is advised to continue paying the rent until and unless the courts decide otherwise.

The owner and renter may agree that the renter will perform specific services to help maintain the property, but the agreement must provide some "consideration" or payment for the renter's services other than the occupancy of the property.

Renter's Rights

When the renter and owner do not agree about whose responsibility it is to repair damage or maintain property, the renter has the right to:

1. Notify the appropriate agency of the problem. If it is a matter of violation of the housing code, the Minimum Housing Inspector of the City of Salisbury should be notified. State law protects renters from eviction for making a complaint in good faith about a possible violation of codes or laws regulating residential property.
2. File a claim in magistrate's court in order to require the owner or manager to fulfill his obligations under the law.
3. If, after the proper notice and if the property is not "fit and habitable," the renter may move out of the property and stop paying the rent. This action is a last resort and must be based on a justifiable claim that the owner or manager has not fulfilled his obligations.

If the renter takes legal action against the property owner and if the court rules in favor of the renter, the property owner may be required not only to make repairs but to pay back to the renter an amount of money as compensation for the time that the renter was forced to live in substandard conditions. This remedy is called rent abatement. The tenant (renter) may also recover the value of any personal property damaged or lost or the cost of medical bills resulting from the owner's failure to make repairs.

Owner's Rights

The owner, on the other hand, has the right to:

1. Evict the renter if he/she has damaged the property and if the lease allows the owner to terminate it for that reason and to recover the cost of such repairs.
2. Inspect and make repairs to and show rental property at reasonable times and in a reasonable manner without notice, provided the renter has been informed that this right is reserved in the lease.
3. Have the property returned in the same condition it was in when the renter took possession, except for ordinary wear and tear.

Making Improvements to the Property

When you, as renter, want to make any change to rented property, you must secure the permission of the owner or manager. You are not responsible for improving the property. If the kitchen sink is badly chipped when you move in, for example, it is not expected that you replace it. This is the owner's responsibility. However, if you want to add a ceiling fan, install fixtures, or hang wallpaper, do not do so without making sure that the owner or manager has given you permission to do so. If you do not, you may be required to remove your "improvement" and restore the property to its original condition, or pay for doing so. Any such changes you do make with the owner's permission will be at your own expense. Furthermore, they may be considered permanent changes and become the property of the owner. You may not be able to remove them when you leave.

Notice to Vacate

§42-14

If the lease requires a notice or if the lease renews automatically (for example, month to month), unless there is a notice to terminate, the party seeking to stop the lease must give a proper notice. The renter is obligated to pay rent to the end of the period for which proper notice is given. Notice should be effective at the end of the last full rental period (week or month) which is desired. If proper notice is not given the renter may be required to pay rent for the next period. The owner, on the other hand, cannot demand immediate possession of rented property. He/she must honor the renter's right to occupy the property during any period for which the rent has been paid and for which proper notice to vacate is not given. Notice should be in writing, (although not required by law), giving the date of vacancy, and it should be signed and dated and delivered before the notice period required by law.

Notice Period

§42-14

The notice period depends on the period for which the property is rented. If there is a written lease, the notice period is usually stated in the lease. If there is no written lease provision and no notice period has been stated in an oral agreement, the following notice periods are required by law:

For a week-to-week rental period, the notice period required is two days.

For a month-to-month rental period, the notice period required is seven days.

For a year-to-year tenancy, the notice period required is one month.

Be sure to determine what the notice period is before you make plans to move, so that there is no question that proper notice is given. If there is any doubt, talk to the property manager, a housing counselor or an attorney.

When the Lease Expires

§42-14

If there is a rental agreement, either oral or written, to rent for a specified period of time (that is, until a certain date), there is no requirement by law to give notice to vacate or of intention to vacate if the property is to be vacated at the end of that period, unless the lease specifically requires that notice be given. However, it is a matter of courtesy to give notice even if it is not required. If the lease or agreement provides for automatic renewal, notice of termination of the lease will be required. (*See Leases*).

When the Lease Has Not Expired

If you must move prior to the end of the lease period, give the owner or rental agent as much notice as possible so that another renter can be found. You will probably be required to pay the owner for lost rent due to your moving out early. This is usually stated in the lease (*see Breach of Lease under Leases*). This charge is limited to the actual rent lost by the owner due to the property being vacant after you move. If a new renter moves in when you move out, there would be no rent lost. By giving notice as soon as possible,

therefore, you may be able to reduce this cost. Some leases provide for "buying-out" the unexpired term of the lease. Typically, this requires a thirty day notice and the payment of one-and-a-half months rent.

Restoring and Cleaning the Property

Give the property a good cleaning and repair any damage that is your responsibility. If you have hung pictures, curtains, towel racks or other items, use plaster to fill in the holes or cracks that may be exposed when you remove them. A renter has the right to remove such items placed by him or herself on the owner's property for the renter's own convenience, provided they are not replacements of the owner's original fixtures or are not considered permanent improvements. However, any damage to the owner's property caused by their removal is the renter's responsibility. Clean the stove, oven, refrigerator and bathrooms. Wipe off the woodwork and walls where hands may have left marks. Vacuum rugs and floors and clean kitchen and bathroom floors. Leave the property at least as clean as it was when you moved in.

This is a lot of work, but there are two reasons for doing it. First, it is what you would like for the renter who moves out of the property you move into to do. Second, it will protect you against charges for cleaning the property if the owner or manager decides the property is unusually dirty. The renter is not responsible for "normal wear and tear," but he may be charged for conditions not normally expected. In order to make sure that you and the owner or manager agree on the condition of the property when you leave, you should inspect the property just as you did when you moved in. (*See Moving In*).

Final Inspection of the Property

On the last day of occupancy, or as close to it as possible and after the property has been cleaned, re-inspect the property, using the same check- list used when you moved in. Ask the owner or rental agent to inspect it with you. Ask a witness (not a family member or occupant of your property) to make the inspection with you if the owner or agent cannot or will not do so. Mark the condition on moving out of each item on the list, just as you did when you moved in. Compare the conditions at the beginning and end of your rental period. You are not responsible for normal wear and tear. However, if there is any disagreement about whether the change in the condition of the property during your occupancy is more than normal wear and tear, write a detailed description of the condition of the item in question. Better yet, take a photograph of the item for your records.

Recovering the Security Deposit

§42-50

After the inspection is completed, date and sign it and get the owner or the manager or your witness to do the same. Give the owner or manager a copy and ask him to state exactly what costs he will charge against your security deposit. Remember, you cannot be charged for routine cleaning and painting or for maintenance and repairs which are not your responsibility. (*See Maintenance and Repairs in the section on Rights and Responsibilities*). Security deposits can be used only for the six specific purposes listed in the section on Security Deposits. If none of those apply when you move out, you should receive a full refund on your deposit.

The owner or manager is required by law to return the security deposit within thirty days after the renter has vacated or to send him a statement of the charges made against it and a refund of the remainder, if any. In order to do this, you must leave a forwarding address with the owner or manager. If he has no address to forward your refund to, the owner or manager must hold your deposit for thirty days. After that, he may use the deposit for any of the purposes permitted by law. However, after six months, if you have not claimed it and did not leave a forwarding address, the deposit can be used by the owner or manager for any purpose.

Disconnecting Utility Services

Notify all utility services of your move-out date in advance so that your service will be disconnected on that date and you will not be charged for service you do not use. There is no charge for disconnecting service. The same notice period is required for disconnecting as for connecting services (see *Moving In*). If you are moving out of that utility's service area, you should request the return of any deposit you made to that company.

Discrimination in housing practices because of race, color, religion, disability, familial status, sex, or national origin is prohibited by federal and state law, as well as by local ordinances in some cities and counties in North Carolina. All of these laws or ordinances are similar in prohibiting discrimination in virtually every type of housing practice, including the rental and sale of property, the terms and conditions of occupancy, the treatment of applicants, and the advertising of property. The administering agency under each law or ordinance is empowered to investigate and to seek to conciliate complaints of violations. Each such law or ordinance also permits the complainant to file suit in the appropriate court. Where a local fair housing ordinance is in effect, the state law does not apply. Where the Department of Housing and Urban Development (HUD) has recognized the law or ordinance as substantially equivalent to the federal law, HUD will defer to the state or local agency for enforcement.

Federal Law

The federal Fair Housing Act (Title VIII of the 1968 Civil Rights Act) prohibits most types of discrimination in housing because of race, familial status, disability, color, sex, religion or national origin. Private homeowners are exempt in some instances, as are rooms in private dwellings, and units in buildings with four units or less if the owner lives in one unit, and there are some other exceptions.

The Department of Housing and Urban Development (HUD) administers this law and complaints may be filed with that agency (see the Directory for address) or the complainant may file suit in federal court. HUD's authority under this law is limited to investigation, conciliation and administrative law judgments.

State Law

The state of North Carolina has (effective October 1, 1983) a law prohibiting discrimination in housing practices because of race, color, familial status, disability, religion, national origin, or sex, which provides for the investigation and conciliation of complaints of discrimination by the North Carolina Human Relations Commission. The state fair housing law is similar to the federal Fair Housing Act.

What is Prohibited in the Sale and Rental of Housing?

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In Mortgage Lending

In mortgage lending, no one may take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to make a mortgage loan
- Refuse to provide information about loans
- Impose different terms and conditions on a loan
- Discriminate in appraising property
- Refuse to purchase a loan
- Set different terms or conditions for purchasing a loan

In addition, it is illegal for anyone to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right;
- Advertise or make any statement that indicates a limitation or preference based on any of the protected classes listed above.

The court may award punitive damages to the complainant, as well as actual damages, including compensation for humiliation and embarrassment, plus court costs and reasonable attorney fees if the court finds in favor of the complainant. In addition, the court may grant a permanent or temporary injunction, or other order as relief.

No Self Help Evictions

A renter cannot be evicted in any way other than by court order. This means that the owner or manager cannot require or force a renter to vacate any property, lock a tenant out of property or impound a tenant's personal property, or turn off the tenant's heat or utilities. No matter what violation of the lease or other agreement the renter may have committed, the property owner or manager must follow the legal procedure set forth in state law and summarized below in order to evict any tenant.

Grounds for Eviction

§42-26

There are three reasons that a renter may be evicted (sometimes called dispossession or ejection):

1. When the renter "holds over" or remains in possession of the property after the term of the lease has expired.
2. If the lease specifically permits termination of the lease for that violation, and the renter has broken or has failed to keep any provision in the lease, or has knowingly permitted any other person to do so.
3. When the renter has failed to pay the rent after the date the rent is due and the renter has lost the right of possession. The renter may lose the right to possession if the lease provides for termination upon non-payment of rent. If the lease is silent on that point, the law provides that the tenant may lose the right of possession if the owner demands all the past due rent, waits ten days, and then sues for eviction (summary ejection).

If the owner or manager seeks to evict the renter because of nonpayment of rent, the court may stop the eviction action prior to making a decision if the renter pays all rent due and the costs of the proceedings. If the owner refuses to accept payment, the renter may retain possession of the property by paying the rent and costs to the clerk of Superior Court. However, if the lease provides that the owner may terminate the lease for failure to pay the rent when due, the payment of rents and costs cannot stop the eviction.

Defense of Retaliatory Eviction

§42-37.1

Renters are protected from eviction that is in retaliation for the renter's exercise of his right to decent, safe and sanitary housing. Specifically, a renter and any of the renter's household known by the owner to be living with the renter are protected from eviction for the following actions done in good faith:

1. A complaint or request to the owner, his agent or his employee for repairs of conditions that the owner is obligated by law to repair.
2. A complaint to a government agency alleging a violation by the owner of any code or law that regulates residential property, such as local housing codes, housing discrimination, and the Residential Rental Agreement Act of North Carolina.
3. A complaint to the owner from a government agency regarding the property occupied by the renter.
4. An attempt to exercise any rights of the renter granted under a lease or rental agreement or under any law.

5. An attempt to organize, join or be involved with an organization to promote or enforce renter's rights.

The renter may present an affirmative defense of his right to occupy the property by proving to the court that the eviction is substantially in response to one or more of those five protected acts within twelve months prior to the filing of the summary ejectment action by the owner.

However, the owner may evict the renter even if retaliatory eviction is proved, if any of the following conditions also exist:

1. The renter has failed to pay rent when due or has violated any other provision of the lease, and that is the reason for eviction.
2. When the renter is "holding over," if the tenancy is for a definite period of time, and the renter has no option to renew the lease.
3. The violation complained of was primarily the renter's responsibility.
4. The owner must remove the renter in order to comply with any law requiring demolition or major work on the property.
5. The owner notified the renter in good faith prior to the occurrence of any of the protected acts that he must vacate.
6. The owner, in good faith, wants the property at the end of the renter's term for his own residence, or for demolition or repair that requires the renter to vacate, or to cease use of the property as a rental dwelling for at least six months.

If the court finds that the eviction action is retaliatory, the eviction will be stopped. The renter must, however, pay any rent due or any other damages ordered by the court. §42-37.2

Summons

§42-28

When the owner or his agent files an action to take possession of leased property from the renter, the clerk of superior court issues a summons requiring the renter (defendant in the action) to appear in magistrate's court at a specified time and place (not to exceed ten days after the issuance of the summons) to defend his right to occupy the property. The owner (plaintiff in the action) may claim back rent and damages not to exceed \$2000.00 in magistrate's court.

Service of Summons

§42-29

An officer of the law (usually a sheriff's deputy) must deliver a copy of the summons and the complaint to the renter by mail and must also attempt to deliver them personally to the renter by making at least one telephone call for an appointment for delivery or by at least one visit to the renter's address. If those methods are unsuccessful, the officer may leave the papers at the renter's address with some person "of suitable age and discretion" living there. If all of those efforts fail, the officer shall then serve the summons by fastening it to some "conspicuous part of the premises."

Trial by the Magistrate

§42-31

If the renter denies any of the allegations of the owner in court, the magistrate must hear the facts from both parties and make a judgment based thereon. (No legal aid is required to present a case in magistrate's court, but it is permitted.) Even if the renter does not appear in court to defend against the action, the owner must still present facts to prove the case for summary ejection.

If the renter who is a defendant in a summary ejection action chooses to deny the facts alleged by the owner in the complaint, he may do so verbally in court at the trial. If the renter wishes to present an affirmative defense (an allegation that the owner has violated the law or broken the lease), then he may also present that defense at the trial. The renter may also assert claims for damages against the owner, not to exceed \$2,000.00 in magistrate's court.

Judgment by the Magistrate

§42-30

Where the owner in court has proved a valid legal claim by the preponderance of the evidence or where the renter admits the allegations of the complaint, the magistrate shall rule that the renter must vacate and pay any rent determined by the magistrate to be due and any damages proved, up to \$2,000.00 including cost of court.

If the judgment is in favor of the owner, the owner may obtain a writ for possession which orders the sheriff to supervise the owner in physically removing the renter from the owner's property. The execution of this writ for possession is automatically delayed for ten days after the judgment is issued and the renter has the right to appeal at this time. During this ten day period the renter may notify the court and the owner of his appeal of the order. If an appeal bond is filed, the court's order for eviction (called summary ejection) will be postponed and the eviction will not be carried out before the appeal is heard.

Notice of Eviction

§42-36.2

Before removing a renter's personal property and if applicable, his or her family, from the owner's premises, following the issuance by the magistrate of a writ for possession, the sheriff must notify the renter of the approximate time they will be removed. The time of eviction must be no more than seven days after the sheriff receives the writ for possession. The eviction must be carried out by the sheriff no earlier than the date specified in the notice to the renter.

The notice of eviction to the renter must be delivered in person to the renter or left with a responsible person at the renter's residence at least two days before the date of the eviction; or it must be mailed first class to the renter's last known address at least five days before the date of eviction.

Disposal of Evicted Renter's Property

§42-36.2

When the sheriff removes the evicted renter's personal property and if applicable, his or her family from the owner's premises in accordance with the writ for possession, the renter should take possession of his property and move it. If the renter fails or refuses to do so, the sheriff may leave the personal property inside the dwelling or deliver the property to a storage warehouse within the county. The cost of delivery to the warehouse and the cost of one month's storage may be required from the property owner or manager in advance by the sheriff. If the owner or manager refuses to advance these costs, when requested to do so by the sheriff, the sheriff will not remove the renter's property and will return the writ for possession to

the clerk of court. If the renter's property is not removed from the owner's premises following an order for eviction, the owner may then padlock the premises containing the renter's possessions. The renter may remove his possessions from the owner's property by requesting the owner to permit their removal within the next twenty-one days without any penalty or cost. After that time, if the renter has failed to claim his property, the owner may take legal action to dispose of that property.

Cost of Eviction

§42-36.2

All costs of eviction, including the court proceedings, the execution of the writ for possession by the sheriff, and the cost of storage will be charged to the renter and his property may be sold at a warehouseman's lien sale after twenty-one days to recover the costs. However, if the renter claims his property within twenty-one days, he may recover it and remove it from the warehouse at no cost. Even under such circumstances, the property owner may seek to recover the cost of removal and storage from the renter through legal action.

Expedited Eviction

§42-59

State statutes recognize that the health, safety, and welfare of residents are often jeopardized by the criminal activity of other residents of rented residential property, but that landlords are often unable to remove those residents engaged in criminal activity. The statutes therefore include an expedited eviction process for renters who engage in criminal activity.

A landlord can pursue the expedited eviction of a tenant or tenants in district court and the court can order the immediate eviction of the tenant(s) if it finds that:

- (1) Criminal activity has occurred on or within the individual rental unit leased to the tenant; or
- (2) The individual rental unit leased to the tenant was used in any way to promote criminal activity; or
- (3) The tenant, any member of the tenant's household, or any guest has engaged in criminal activity on or in the immediate vicinity of any portion of the entire premises; or
- (4) The tenant has given permission to or invited a person to return or reenter any portion of the premises, knowing that the person has been removed and barred from the premises.
- (5) The tenant has failed to notify law enforcement or the landlord immediately upon learning that a person who has been removed and barred from the tenant's individual rental unit has returned to or reentered the tenant's individual rental unit.

When a landlord seeks to expedite the eviction process based on criminal activity, the expedited proceedings outlined in General Statutes §42-68 shall apply.

Magistrate's Court (sometimes called small claims court) is provided by the state of North Carolina for persons who wish to have small claims and disputes resolved in court. It is part of the District Court system, and one is located in every county seat and in each large city throughout the state. The Magistrate's Court is designed to settle small claims quickly and inexpensively.

Legal Assistance

It is not necessary to have a lawyer represent you in Magistrate's Court, although it is permitted. If in doubt, consult an attorney. If you do not have an attorney or do not know whether you need one, you may call the North Carolina Lawyer Referral Service at 1-800-662-7660. You can also call Legal Aid in Lexington, North Carolina, dial 1-800-722-1740 or 1-704-249-7736 or the Legal Aid office in Greensboro, North Carolina, dial 1-800-951-2257 or 1-910-272-0148.

Limit of Claims

The amount of money or the value of property involved in a Magistrate's Court case is limited to two thousand dollars (\$2,000.00) currently.

1. Forms for filing suit in Magistrate's Court may be obtained at the office of the Clerk of Superior Court (see Directory) in the county where the person being sued lives or the company being sued is located.
 2. Fill out the forms after reading the instructions, being sure to state the exact nature of your complaint and state the exact name and address of each person or the company being sued. If you do not know how to sue a company, consult an attorney.
 3. Determine the trial date and time with the clerk's office and prepare a summons for each person being sued. A summons and complaint form must be delivered to each person being sued. This is done by the sheriff's office. However, the person filing suit must provide the sheriff, stamped, addressed envelopes for each defendant to be served.
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The Trial

Trial will be set within thirty days of the filing of the suit. During that time, all records should be collected relating to the complaint, and witnesses should be informed of the trial date and time. If a witness refuses to appear voluntarily, you can obtain from the clerk's office a subpoena which requires them to be present. The sheriff's office will also deliver the subpoena. Subpoenaed witnesses (up to a limit of two) are entitled to a fee and travel expenses for testifying. These fees may also be added to the court costs paid by the losing party.

At the trial, both you and the persons being sued will be given an opportunity to present evidence and interview witnesses. Both the complainant (called the plaintiff) and the defendant can ask questions and question each other's witnesses. The magistrate may also ask questions. The proceedings are informal but all persons testifying are placed under oath to tell the truth. There is no jury, and the magistrate will make a decision based on the evidence given at the trial. The decision may be given as soon as the trial is over but must be made within ten days.

When You are Sued

If suit is filed against you in Magistrate's Court, you will receive a summons to appear in court on a certain date and time. You will also receive a copy of the complaint against you. These will generally be served by the sheriff's office, both by mail and personally.

If the complaint against you is correct, you may avoid the trial by settling the dispute with the complainant before the trial. If the dispute is settled, be sure that the complainant notifies the Clerk of Superior Court or the magistrate so that the case will be dismissed. If you want to defend yourself against the complaint, follow the same procedure in preparing for the trial and in presenting your case at the trial as explained in the foregoing sections.

If you have a counterclaim against the complainant or a defense which charges the complainant with a violation of law, you may present this at the trial. For example, a property owner or manager may sue a renter for unpaid rent. The renter may defend himself against this charge by claiming that the property rented was not fit for habitation. But, your answer and counterclaim must be in writing, and you must serve the plaintiff with a copy before the trial starts.

If the magistrate rules in your favor the case is over, unless the complainant appeals the decision. If you lose the case, you may appeal the decision. If no appeal is made, the judgment of the magistrate must be paid by the person losing the case.

Appeal

In order to appeal the magistrate's decision, the person appealing may tell the magistrate while the other party is still in court that he wants to appeal. This will constitute legal notice of appeal. Appeal may also be made in writing to the Clerk of Superior Court and with copies to all parties to the case within ten days of the magistrate's judgment. An appeal may be heard before a jury if either party requests it. There is a fee for filing an appeal. Appeals are heard in district court. Persons filing an appeal should consult an attorney in order to assure that the proper procedure is followed and that their rights to appeal are not forfeited. The filing of an appeal will stop the execution of the magistrate's decision as to money owed (stay the judgment), so long as all fees and other costs are paid.

If a renter appeals a magistrate's decision that the renter is to be evicted, in addition to paying the fee for filing an appeal, the renter must also agree to pay to the clerk of court all future rent as it becomes due, until the appeal is heard, if he wants to remain in possession of the property. An indigent renter may appeal by filing a statement that he is unable to pay for an appeal (an in forma pauperis affidavit). If the clerk of court issues an order, based on that statement, allowing the renter to proceed, he may avoid the filing fee and the rent for the month in which the magistrate's judgment was issued.

The trial in district court will be, in effect, a new trial (de novo) and each party will present his case as though it had not been tried before. The judgment of the district court is final and cannot be appealed on the basis of facts at issue. It may, however, be appealed on any permissible legal grounds to the N.C. Court of Appeals in Raleigh.

REFERENCES:

Federal Fair Housing Act.
The Department of Housing and Urban Development (HUD).
NC State Fair Housing Law.
General Statutes of North Carolina (Chapter 42 Landlord and Tenant).
North Carolina Model Housing Code (Chapter 10).
City of Salisbury Minimum Housing Code

The City of Salisbury has a housing code which states the minimum standards of fitness for housing to be fit for human habitation in order to protect the health, safety and welfare of the residents of the city as authorized by G.S. 160A, art. 19, pt. 6 (G.S. 160A-441 et seq.)

The following text summarizes portions of Salisbury City Code Chapter 10 Housing. Please refer to the City Code for complete and most up-to-date information. Whenever a topic below is not included in the Housing code, the corresponding portion of the City Code will be cited.

Minimum Standards

Compliance

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article.

Structural Conditions

- Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged and shall not have holes or cracks which might admit rodents.
- Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- Foundation, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- Adequate facilities for egress in case of fire or panic shall be provided.
- Interior walls and ceilings of all rooms, closets and hallways shall be finished or suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight. There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.
- There shall be no use of the ground for floors, or wood floors on the ground.

Egress

Every dwelling unit shall be provided with adequate means of egress as required by the state building code.

Plumbing System

- Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
- Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- All plumbing fixtures shall meet the standards of the city plumbing code and shall be maintained in a state of good repair and in good working order.
- All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the dwelling unit. The water closet and tub or shower shall be located in a room affording privacy to the user.

Heating System

Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either of the following:

1. *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70) degrees Fahrenheit (twenty-one (21) degrees Celsius) measured at a point three (3) feet above the floor during ordinary winter conditions.
2. *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit (twenty-one (21) degrees Celsius) measured three (3) feet above the floor during ordinary winter conditions.

Electrical System

Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) supplied ceiling or wall type electric light fixture. If wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor or wall type electric convenience receptacles.

Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, capable of being used, and installed in accordance with the state electrical code.

Ventilation and Lighting

Minimum Window Area

Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room, shall be ten (10) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstructing structure are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

Ventilation In Habitable Rooms

Every habitable room shall have at least one (1) window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight-type window size as required under this division, or the room shall have other approved, equivalent ventilation.

Bathrooms

Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Space; Use; Location

Calculation Of Floor Area

For purposes of this article, floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten (10) percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4 1/2) feet shall not be considered as part of the floor area in computing the total area of the room to determine maximum permissible occupancy.

Room Sizes

1. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code.
2. Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.
3. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

Ceiling Height

At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet six (6) inches.

Use Of Cellars For Living Purposes

No cellar shall be used for living purposes.

Use Of Basements For Living Purposes

No basement shall be used for living purposes unless:

1. The floor and walls are substantially watertight.
2. The total window area, total openable window area and ceiling height are equal to those required for habitable rooms.
3. The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or accessway.

Maintenance

Exterior Foundation, Walls and Roof

Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodentproof, shall be kept in sound condition and good repair, shall be capable of affording privacy, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

Interior Floor, Walls And Ceilings

Every floor, interior wall and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

Windows And Doors

Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight and rodentproof and shall be kept in sound working condition and good repair.

Stairs, Porches And Appurtenances

Every inside and outside stair or porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound and good repair.

Bathroom Floors

Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonable impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

Supplied Facilities

Every supplied facility, piece of equipment or utility which is required under the provisions of this chapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

Drainage

Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

Noxious Weeds

Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

From Salisbury City Code, Chapter 14 Nuisances, Section 14.8.

The property owner and occupant are responsible for keeping the property in safe and clean order. Grass, weeds, and other overgrowth vegetation should be cut and should never be greater than 12 inches in height on average. The property shall also be clean and kept free from trash and litter, and should not become a breeding place for mosquitoes, as a refuge for rats and snakes, or as a fire hazard. It shall be the duty of the owner and occupant to cut and remove all grass, weeds, and other overgrowth vegetation as often as necessary.

Screens

In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

Rodent control

Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent the entry of rodents.

Rubbish Storage and Disposal

Every dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by this Code or city ordinances; and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

From Salisbury City Code, Chapter 14 Nuisances, Section 14.7.

Upholstered furniture or other furniture designed exclusively for indoor use shall not be left outside in open or exposed areas, including porches. Also, any worn-out, deteriorated or abandoned household or office furniture, or appliances of any kind shall not be kept in open areas, including porches.

Garbage Storage and Disposal

Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit such as a mechanical sink grinder, to be approved by the inspector, in each dwelling unit or incinerator unit in the structure, for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by city ordinance.

From Salisbury City Code, Chapter 21 Solid Waste, Section 21-21.

All garbage containers and recycling bins shall be placed on the street no earlier than dusk on the evening prior to scheduled collection and no later than 7:00 AM on collection days. Containers shall be removed from the street by the owner or occupant of the premises by midnight on the day of collection. No containers of any type are to be placed, kept or left on the street for any purpose on Saturday and Sunday.

Responsibility For Extermination

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonable insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

Abandoned Houses

In addition to the inspection and enforcement of minimum standards of occupied dwellings, the City shall cause to be repaired, closed, and removed or demolished any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities.