



North Carolina Property Manager Memorandum - February 2021

- ✓ North Carolina law requires a **written property management agreement** (21 NCAC § 58A.0114). The property management agreement must be signed and agreed to at the outset of the relationship. Use the North Carolina Realtors' property agreement forms (Standard Form 401 for long-term rental properties, and Standard Form 412-T for short-term rental properties). Any authority the PM has to act on behalf of the owner should be clearly stated in the PM agreement.
- ✓ Make sure the PM agreement states the PM's responsibilities, including all responsibilities related to property maintenance and repairs. The agreement should also state the scope of a PM's authorization to conduct repairs (i.e., any repairs that cost more than the stated amount must be pre-approved by the owner).
- ✓ Be very familiar with Chapter 42 of the North Carolina General Statutes if you manage residential units. Like most other states, North Carolina has very strict landlord/tenant laws that impose specific duties on landlords. A PM must abide by all of the laws and regulations prescribed for landlords.
- ✓ Under Chapter 42, all landlords are legally required to keep rental premises livable in North Carolina under the legal doctrine of the "**implied warranty of habitability**." This generally means that once a landlord has received notice of an "imminently dangerous condition," the landlord is required to repair the condition within a reasonable time, based upon the severity of the condition.
- ✓ There is a **statutory right for eviction** in North Carolina when a tenant has failed to do one of the following: (1) Surrender possession of the leased premises after their lease term has expired (a holdover tenant); or (2) Comply with the requirements of their lease, provided the lease allows for the termination of their right to possession in such event (i.e., failing to timely pay rent or other fees).
- ✓ A landlord is required to provide a tenant with **written notice** that their right to possession has been terminated as a result of either the expiration of their lease term or the failure to comply with the lease provisions. The landlord must explicitly state the basis for eviction, citing the specific lease provision or law.
- ✓ After proper notice is provided, a **summary ejectment complaint** may be filed in the Small Claim Division of District Court for the county where the tenant is located. The court has a form complaint that is accessible from its website that should be completed and filed, along with the applicable filing fee.
- ✓ Summary ejectment is the only legal means to remove a residential tenant from a property in North Carolina. Any form of "**self-help**" **eviction** is prohibited, as it is

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considered constructive eviction without judicial intervention. Examples of “self-help” eviction include padlocking the doors, changing the locks, turning off utilities, and seizing a tenant’s property.

- ✓ As COVID-19 calls for daily changes in protocol, it is important to create an adaptive plan to address these ever-changing circumstances. The main objective for a PM should be focused on reducing contact and preventing exposure to employees and tenants.
- ✓ PM’s may consider rent deferments or fee waivers during this time due to the high levels of unemployment. Allowing additional time to pay rent may be necessary given the fact that the North Carolina court system is hearing most summary ejection cases in a significantly decreased capacity.
- ✓ As the situation surrounding COVID-19 is ever evolving, please be sure to regularly check the following resources to stay up-to-date: <https://www.nccourts.gov/covid-19/covid-19-information-for-landlords-and-tenants> and <https://www.ncrealtors.org/covid-19-evictions/>.
- ✓ Due to the COVID-19 pandemic, there are currently state and federal eviction moratoriums in place. Governor Cooper of North Carolina has issued an Order extending the moratorium through March 31, 2021: <https://files.nc.gov/governor/documents/files/EO191-Evictions-Extension.pdf> .
- ✓ President Biden’s Order, implemented through the CDC, extends federal protections for renters through March 31, 2021 and can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-01292021.pdf> .
- ✓ An overview of where to locate property management laws in North Carolina is outlined in the chart below. North Carolina General Statutes can be accessed using the following link: <https://www.ncleg.gov/Laws/GeneralStatutesTOC> .

| Description | Statute |
|-------------------------------|---------------|
| State Fair Housing Act | Chapter 41A |
| Landlord Tenant Laws | Chapter 42 |
| Eviction Laws | Chapter 42-2A |
| Residential Rental Agreements | Chapter 42-5 |
| Security Deposits | Chapter 42-6 |
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