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## **How to create a contract with your NYC roommates to keep the peace**



*Drawing up a roommate agreement can feel awkward but can also prevent problems from escalating.  
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If the layout of your apartment allows it, sharing your place with a roommate or two can make living in New York City that much easier on your bank account. However, living with roommates presents different kinds of challenges, like when they routinely leave a mess in the kitchen, or abruptly up and leave.

So one solution—drawing up an agreement to navigate potential conflicts—can feel awkward but can also prevent small conflicts from escalating. For that reason, a roommate agreement can be equally important for friends as well as strangers.

Consider what's at stake: If you are named on a lease, you have the right to occupy the apartment but you are also individually liable for the full rent if your roommate stops paying.

Michael Landsman, co-managing partner at the law firm Holm & O'Hara, says because of the amount of money involved and because parents are often guarantors, it's increasingly common to have a roommate agreement.

“When parents get involved with paying the rent, they want to make sure that everything is clarified,” he says.

The document typically spells out the roommates' financial obligations to the apartment and each other.

"The lease doesn't state who pays how much, so a roommate agreement clearly defines that," says Eric Hamm, senior managing director at Citi Habitats. The agreement can also cover how utilities are paid, as well as minutiae like who takes out the trash or cleans the bathroom.

### **Preparing a roommate roadmap**

In order to get a basic agreement in place, try and do as much due diligence as possible on your new roomie. That'll mean checking them out on social media and Landsman suggests a verification of their resume and a credit check “just to make sure the person is credit worthy.”

After all, if you are the leaseholder, you will have to pay the landlord regardless of whether your roommate is paying you. Landsman says people often feel shy about asking for credit checks or tax returns but both will help you determine whether your new roommate can fulfil their part of the financial obligations.

### **Important clauses to include**

Part of the arrangement might be that the rent is proportional to your sleeping space. If it's a one bedroom and someone is sleeping on the couch or one roommate travels frequently, you may want to split the cost of the common areas and have different rates for various roommates. All this is part of your negotiation says Landsman.

In one agreement drawn up by Holm & O'Hara, it came out in the consultation that one roommate was planning to propose. The roommates agreed he would pay more if his partner stayed over more than twice a week.

Landsman says there are often instances where one roommate does not hold up the financial side of the agreement or gets a job in a different state and moves out suddenly. He says you will want a clause that says a roommate will cover the rent until a replacement is found and give at least 30 days notice or more before moving out.

On the other hand, if you are the leaseholder it's important to have a termination clause so if it's not working out, you can change your living situation. The roommate is permitted to live in the apartment but is not on the lease, says Landsman and a termination clause will be crucial if you want to end your roommate's ability to stay in your apartment.

Andrea Wells, an agent with CORE says it's worth having a clause about lost keys. "Sometimes there are keys that can be expensive to cut so I recommend a clause that if a roommate loses that key they have to pay for a replacement," she says.

### **How enforceable is it?**

Although the agreement is a legal document, the courts are not going to make rulings on who does the dishes so the enforceability of the agreement, particularly as it relates to chores, is going to be based on the honor of the people signing it. If, however, there are large amounts of money at stake a dispute between roommates could end up in the small claims court.

"If you agree to the terms and someone does not fulfill their side of the bargain, at least you have an agreement to fall back on. It's very useful to have things memorialized," says Landsman.

When the dispute involves money, more often than not a settlement is reached to avoid legal action. Landsman says this is especially the case when parents are involved. "They will want to see the agreement and compel one or other side to behave," he says.

There's also the issue of what is not spelled out in the agreement. "You can't legislate common sense," says Landsman.

If you've been thoughtful about your expectations for living with a roommate, the process of drawing up the agreement should help solidify everyone's commitment to the arrangement.

### **The cost of an agreement**

Landsman suggests putting aside between \$500 and \$1,000 for a roommate agreement negotiated with a lawyer, depending on the complexity of the arrangements. He admits these numbers can "scare people off" but says if you are paying \$30,000 a year on rent, the cost of the roommate agreement is a fraction of that and it's a cost you'd arguably be able to split between everyone in the apartment.

Where the cost of drawing up an agreement is an issue, Wells usually points roommates to search online for a template to get ideas of what might be included. Once you have filled it out, print and sign it and ideally give each roommate a copy.