

# OCCUPANCY STANDARDS 101 FOR HOUSING PROVIDERS

---

**Have you heard that it's okay to limit occupancy to two persons per bedroom?**

**That's not always true.**

The ubiquitous two-per-bedroom occupancy standard is a very general guideline provided by the U.S. Department of Housing and Urban Development – IT IS NOT AN ABSOLUTE! Fair housing enforcement agencies review a number of factors to determine whether an occupancy standard is overly restrictive. Establishing a two-per-bedroom standard without making a determination of its reasonableness for the specific unit may not protect you from a finding that the standard is overly restrictive.

When a housing provider limits the number of occupants in a unit, it impacts families with children more severely than families without children. Under fair housing laws, housing providers can set reasonable occupancy standards that are based on business needs; however, the adverse effect of these standards on families with children requires that they justify the use of such standards. Each situation presents a unique set of facts.

HUD utilizes guidance from the "[Keating Memo](#)," which considers a variety of factors, including the size of the bedrooms and the unit, the unit configuration, the age of the children, other physical limitations of the housing, and other relevant factors. HUD's guidance notes that if a dwelling is governed by State or local governmental occupancy requirements, and the housing provider's occupancy policies reflect those requirements, HUD considers the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.

The Washington State Human Rights Commission makes a determination as to whether an occupancy standard is reasonable and in compliance with the fair housing laws by reviewing relevant factors outlined in a [guidance memorandum](#) issued by the HRC Commissioners in 1998.

---

**As a housing provider, knowledge of occupancy standards can assist you in making reasonable business decisions in compliance with the fair housing laws. Here's what to do if you choose to establish an occupancy standard:**

**1) Measure!** Get out the measuring tape and measure the rooms in your rental units – specifically the dimensions for each bedroom, living room, extra room, library, den, home office, or other room that can be used as a "sleeping space". It helps to develop a floor plan that clearly illustrates the size and configuration of the unit.

**2) Find the applicable code!** Find out which local zoning or building occupancy limitations apply to your unit, house, apartment complex or community. Apply this occupancy guideline to your units based on each unit's specific size and configuration determined in #1 above – the resulting number of occupants the applicable guideline

allows is the basis for your occupancy standard!

**3) Be prepared to substantiate business-related factors!** If there are issues such as the age or condition of your dwelling and its accompanying systems (sewer, septic, electric, water, etc.) which require a more restrictive occupancy standard, be prepared to establish a clear relationship between the business-related factor and the occupancy standard. For example, if a septic system has a limited capacity, be prepared to substantiate that factor by a statement from someone capable of making that determination. Also, be prepared to show whether you looked at other ways to address a limited septic system that do not require a restrictive occupancy standard such as installing water-saving devices or more frequent pumping of the system.

Additional factors could be relevant in evaluating an occupancy standard case. For example, the enforcement agency may need to determine whether the occupancy standard is applied to the number of *people* or the number of *children* occupying a unit. The enforcement agency may also look at whether there is a history of "adults only" rules, segregation of families or rules directed only at children. Overall, the fair housing agency will determine whether there is any other information that supports or refutes the allegation that the occupancy standard is being used to bar or limit children from occupancy.

Civil rights enforcement agencies work to protect the civil rights of families with children. They also have a responsibility to assist housing providers to make reasonable business decisions which are in compliance with fair housing laws. Each case presents a unique set of facts and is determined on a case-by-case basis; however, housing providers who establish occupancy standards based on the above criteria will have a head start.

If you have any additional questions, call your [fair housing agency](#) or see their Web site.

---

## **KING COUNTY OCCUPANCY CODE**

King County Ordinance 12560, as amended, states that dwelling units must have not less than 120 square feet of floor area, sleeping areas must have a minimum of 70 square feet, with an additional 50 square feet for each occupant in excess of two. Efficiency apartments must have a living room that is at least 220 square feet, and an additional 100 square feet for each occupant in excess of two. This code is enforced by the King Department of Development and Environmental Services and applies to housing in unincorporated King County.

---

## **CITY OF SEATTLE OCCUPANCY CODE**

Seattle's Housing and Building Maintenance Code, Chapter 22.206, Minimum Space and Occupancy Standards, states:

22.206.020 Floor area.

- A. Every dwelling unit shall have at least one habitable room which shall have not less than one hundred twenty (120) square feet of floor area.
- B. No habitable room except a kitchen may be less than seven feet in any floor dimension.
- C. Every room used for sleeping purposes, including an SRO unit, shall have not less than seventy (70) square feet of floor area. Every room, except an SRO unit, which is used for both cooking and living or both living and sleeping quarters shall have a floor area of not less than one hundred thirty (130) square feet if used or intended to be used by only one occupant, or of not less than one hundred fifty (150) square feet if used or intended to be used by two occupants. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two.
- D. In a dormitory, minimum floor area shall be sixty (60) square feet per single or double bunk, and aisles not less than three feet in width shall be provided between the sides of bunks and from every bunk to an exit. The requirements of this subparagraph shall not apply to SRO units.
- E. The required floor area square footage of all dwelling units, dormitories, and SRO units shall not include built-in equipment which extends from the floor to thirty inches (30") above the floor, including but not limited to wardrobes, cabinets, and kitchen sinks or appliances.
- 

## **CITY OF TACOMA OCCUPANCY CODE**

Tacoma's Minimum Building and Structures Code, Chapter 2.01, 2.01.070 Minimum building requirements, states:

### **V. Overcrowding, Residential Buildings.**

For single family dwellings and duplexes, the maximum number of residents of each dwelling unit shall not exceed the gross area divided by 300, rounded to the nearest whole number. Bedrooms will accommodate two persons with a minimum size of 70 square feet, with no dimension being less than 7 feet. An additional 50 square feet shall be provided for each person in excess of two.

For multiple family dwellings buildings with three or more units, the maximum number of residents of each dwelling unit shall not exceed the gross area divided by 200, rounded to the nearest whole number. Bedrooms will accommodate two persons with a minimum size of 70 square feet, with no dimension being less than 7 feet. An additional 50 square feet shall be provided for each person in excess of two. Children less than one year of age shall not be considered in applying the above provisions.

March 2007