



A Guide for Determining Occupancy Limits based on Local Restrictions



Produced in 2019 by the Fair Housing Center of West Michigan

Subject to change - Information current as of December 2018

Introduction

The Fair Housing Center of West Michigan developed this guide to assist condominium associations, landlords, property owners and managers, and others in determining how to set occupancy limitations with consideration of fair housing laws. While health, safety and capacity concerns influence landlords, property managers, and condominium associations to implement limits on the number of people that can live together, these limits must be implemented in an objective manner that does not unlawfully limit housing for families with children.

This guide has been primarily based on the requirements of the International Property Maintenance Code® (IPMC). The IPMC, a widely used standard, establishes minimum requirements for the maintenance of existing buildings through model code regulations that contain clear and specific property maintenance and property improvement provisions. Chapter 4 "Light, Ventilation and Occupancy Limitations" sets forth requirements to establish the minimum environment for occupiable and habitable buildings by establishing the minimum criteria for light and ventilation and identifying occupancy limitations including minimum room width and area, minimum ceiling height and restrictions to prevent overcrowding.

This guide does not constitute legal advice, and does not substitute for contacting the appropriate governing municipality to confirm any applicable occupancy restrictions or regulations.

How do occupancy standards relate to the Fair Housing Act?

The federal Fair Housing Act and Michigan laws protect people from discrimination in housing based on race, color, religion, sex, national origin, familial status, disability, marital status, and age. The Fair Housing Act's protections against discrimination on the basis of familial status prohibit restrictive occupancy standards that are used to exclude families with children or that unreasonably limit the ability of families with children to obtain housing.

Many housing providers have employed a general rule occupancy standard of "two people per bedroom", but there is no existing law or guidance that guarantees that such a standard complies with fair housing laws in all circumstances. In fact, in many circumstances, a 2-bedroom unit can accommodate more than 4 people based on its size and layout. The outdated "two people per bedroom" standard has come under heightened scrutiny and has been successfully challenged in an increasing number of cases.

What is considered a reasonable occupancy standard?

The Fair Housing Act specifically allows housing providers to adhere to reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling (42 U.S.C. 3607(b)(1)). These restrictions often appear in property maintenance codes, and take into account factors such as the number and size of sleeping areas or bedrooms, living rooms, and dining rooms, and/or the overall configuration of the unit. If a housing provider allows fewer occupants than would be allowed under the applicable code without just cause, then it could be challenged as discrimination against families with children.

Step-by-step Guide for Determining Occupancy Limits based on Local Restrictions

Step 1: Determine which local unit of government covers your property.

In which city, township, village, county, etc. is your property located?

Note: The city on a property's mailing address may not actually be the local unit of government. For example, many mailing addresses that include "Grand Rapids, MI" may not actually be located within the Grand Rapids city limits, and in fact have a legal property (parcel) address that is located in a neighboring township, such as Plainfield Township, Alpine Township, Grand Rapids Township, Cascade Township, etc.

Not sure? Many county websites have an online Property Search that will identify the unit of government for a specific address. This information often comes from data provided by the County's Treasurer, Assessor, and/or Equalization office. Call your local government to confirm.

Step 2: Determine whether the local unit of government has a property maintenance code or other code limiting occupancy of a residential home or building.

Contact your local unit of government to inquire about any codes that may limit occupancy. You may also check the government's Code of Ordinances for a property maintenance code.

Please see Appendix A for a listing of applicable codes (or lack thereof) for the local units of government within Kent County, MI. *Note:* Appendix A is not a replacement for directly contacting the local unit of government to confirm any relevant code. Codes are subject to change.

Step 3: Review requirements of relevant property maintenance or occupancy codes.

In the absence of a specific code adopted by a government unit, the FHCWM recommends consideration of the "Occupancy Limitations" of the International Property Maintenance Code.

See Appendix B for a guide to the square footage requirements of common property maintenance codes. *Please note:* Appendix B does not address the requirements for efficiency units, which can be found in the applicable code.

Step 4: Calculate the square footage of the relevant room(s) within each floor plan of the home or building.

Visit www.fhcwm.org/occupancy for a Square Footage Calculator Tool.

Step 5: Use the square footage information and applicable code information to determine appropriate occupancy limitations.

See Appendix C for examples of floor plan and occupancy calculations.

Step 6: Document, document, document!

Keep record of all your efforts, documents and contacts to determine an occupancy limit.

Appendix A

Property Maintenance Codes of Local Units of Government within Kent County, MI

<u>Local Unit of Government</u>	<u>Type</u>	<u>Occupancy Code</u>
Ada	Township	None
Algoma	Township	None
Alpine	Township	2012 IPMC
Bowne	Township	None
Byron	Township	Own Code – Similar to 2015 IPMC
Caledonia	Township	None
Caledonia	Village	2000 IPMC
Cannon	Township	2015 IPMC
Cascade	Township	2003 IPMC
Casnovia	Village	None
Cedar Springs	City	2006 IPMC
Courtland	Township	IPMC
East Grand Rapids	City	2018 IPMC
Gaines Charter	Township	None
Grand Rapids	City	2012 IPMC
Grand Rapids	Township	None
Grandville	City	BOCA National Property Maintenance Code 1993
Grattan	Township	None
Kent City	Village	2003 IPMC
Kentwood	City	2015 IPMC
Lowell	Township	2015 IPMC
Lowell	City	2006 IPMC
Nelson	Township	None
Oakfield	Township	None
Plainfield Charter	Township	None
Rockford	City	Own Code – Similar to 2018 IPMC
Sand Lake	Village	None
Solon	Township	None
Sparta	Village	2000 IPMC
Sparta	Township	None
Spencer	Township	None
Tyrone	Township	None
Vergennes	Township	None
Walker	City	2015 IPMC + modifications (see Appendix B for more detail)
Wyoming	City	2012 IPMC

KEY:

IPMC International Property Maintenance Code

BOCA BOCA National Property Maintenance Code

None The government’s online Code of Ordinances did not contain a Property Maintenance Code and/or a government official confirmed that no property maintenance code had been adopted

This information is based on the best efforts of the Fair Housing Center of West Michigan to verify Property Maintenance Codes adopted as of December 2018. This information is subject to change, and does not substitute for contacting the appropriate governing municipality to confirm any applicable occupancy restrictions or regulations.

Appendix B

Minimum Required Floor Area in Square Feet

Area # of occupants	Bedroom				Living Room			Dining Room**			Kitchen		
	1	2	3	4	1-2	3-5	6+	1-2	3-5	6+	1-2	3-5	6+
Code													
2018 IPMC	70	100	150	200	120	120	150	none	80	100	none	none	none
2015 IMPC	70	100	150	200	120	120	150	none	80	100	none	none	none
2012 IPMC	70	100	150	200	120	120	150	none	80	100	none	none	none
2009 IPMC*	70	70	70	70	120	120	120	none	none	none	none	none	none
2006 IPMC*	70	70	70	70	120	120	120	none	none	none	none	none	none
2003 IPMC	70	100	150	200	none	120	150	none	80	100	none	none	none
2000 IPMC	70	100	150	200	none	120	150	none	80	100	50	50	60
1996 BOCA	70	100	150	200	none	120	150	none	80	100	50	50	60
1993 BOCA	70	100	150	200	none	120	150	none	80	100	50	50	60
City of Walker	70	100	150	200	150	200	300	50	80	150	none	none	none

KEY:

IPMC International Property Maintenance Code

BOCA BOCA National Property Maintenance Code

NOTE: Sleeping area. Under the IPMC, the minimum occupancy area required for living rooms and dining rooms shall not be included as sleeping area in determining the minimum occupancy area for sleeping purposes; which may infer that any floor area in excess of the required minimum may be counted as sleeping area if it also meets the requirements for sleeping areas. Check with your code official for a determination on whether or not there is additional sleeping area in a living room, dining room or den.

***Code official discretion:** The 2006 and 2009 IPMCs establish baseline minimum room area requirements for bedrooms and living rooms regardless of the number of occupants, but do not specify per person area requirements. Instead, these versions of the IPMC state the following regarding overcrowding: the number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

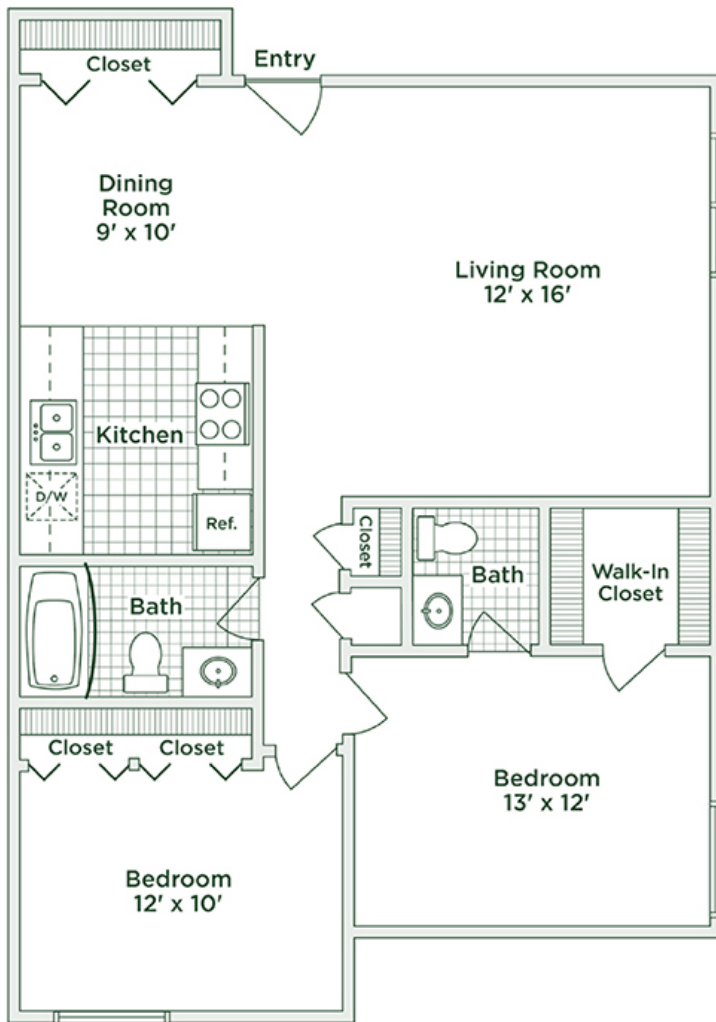
****Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of this table if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room (1993 BOCA, 1996 BOCA, 2000 IPMC, 2003 IPMC, 2012 IPMC, 2015 IPMC, 2018 IPMC).

For example, this means that under the 2018 IPMC a combined living room/dining room would need to be at least 200 square feet (120 square feet + 80 square feet) for 3 - 5 occupants.

Appendix C

Example 1: Two Bedroom Unit with Separate Living Room and Dining Room

Applicable Code: 2018 International Property Maintenance Code



Square Footage Calculations:

Room	Dimensions	Square Footage	Allowable Occupants
Bedroom	12' x 10'	120 sq. ft.	2
Bedroom	13' x 12'	156 sq. ft.	3
Dining Room	9' x 10'	90 sq. ft.	3 - 5
Living Room	12' x 16'	192 sq. ft.	6 or more

Determination of Occupancy Limit:

5 occupants

Explanation: while the living room is large enough to accommodate 6 or more occupants, there is only sufficient sleeping area for 5 occupants (2 occupants in the first bedroom and 3 occupants in the second bedroom) and there is also only sufficient dining room space for up to 5 occupants.

Appendix C

Example 2: One Bedroom Unit with Combined Living Room and Dining Room

Applicable Code: 2018 International Property Maintenance Code



Square Footage Calculations:

Room	Dimensions	Square Footage	Allowable Occupants
Bedroom	11'7" x 13'10"	160 sq. ft.	3
Combined Living Room/Dining Room (Great Room)	19'7" x 13'	254 sq. ft.	6 or more

Determination of Occupancy Limit:

3 occupants

Explanation: while the living room/dining room is large enough to accommodate 6 or more occupants, there is only sufficient sleeping area for 3 occupants.

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Please note that this guide book is not intended to be used as legal advice and does not substitute for contacting the appropriate governing municipality to confirm any applicable occupancy restrictions or regulations.

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