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REAL ESTATE BOARD OF NEW YORK

FREQUENTLY ASKED QUESTIONS CONCERNING THE PROPER MARKETING OF BEDROOMS AND OTHER ROOMS IN A DWELLING

How brokers and agents describe a dwelling's size and characteristics in the REBNY Listing Service is a critical part of marketing that exclusive property. These descriptions must be accurate. Exaggerating the listing's size by inflating how many rooms may be used as bedrooms both frustrates customers and reflects poorly on the brokers or agents working with them. It is also illegal. Consequently, all real estate professionals must have a basic understanding of the definitions and requirements that govern the various types of rooms in New York City's apartments.

The following FAQs discuss the basic definitions of certain types of rooms commonly found in New York City properties.

1. What is a "bedroom"?

(Source: NYC Administrative Code § 27-2004, -2076, -2058; MDL § 1-4-18)

- **Definition:** A bedroom is a living room used for sleeping purposes.

- **Size requirements:** Generally, a bedroom must have minimum dimensions of 8 feet x 8 feet x 8 feet. A bedroom must also have a minimum floor space of 80 square feet, and must be six feet wide at its narrowest part. However, if the apartment contains three or more bedrooms, half of the bedrooms may have minimum dimensions of 7 feet x 7 feet x 7 feet.

- **Lighting Requirements:** All bedrooms must have at least one window that opens to a street, yard, or court on the same lot.

    - The window may also open to a balcony that opens on a street, yard, or court.

    - The total area of the windows in the room must at least be one-tenth the floor area of the room. All required windows must be at least twelve square feet in area.

- **Additional Points:**

    - A room may not be counted as a bedroom if it is a: kitchen, foyer, bathroom, water closet, dining room, dinette, dining bay, hall, corridor, or passageway.

    - A room may not be counted as a bedroom if an occupant must pass through it to reach other parts of the apartment.

2. What is a "living room"?

(Source: NYC Administrative Code § 27-2074, -2058; MDL §§ 1-4, 3-31)

- **Definition:** A living room is any room other than a dining space, kitchenette, bathroom, foyer, or hallway. A living room can be a bedroom, if it meets the criteria set forth above.

- **Size requirements:** Every living room shall have minimum dimensions of 8 feet x 8 feet x 8 feet, must have a minimum floor space of 80 square feet, and must be six feet wide at its narrowest part.

- **Lighting requirements:** A living room must have at least one window that opens onto a street, yard, or court on the same lot.

    - All windows in living rooms must comply with the size requirements for windows in bedrooms: The total area must be at least one-tenth of the floor area of the room. All required windows must be at least twelve square feet.

- **Usage requirements:** If a living room is subdivided, each subdivision must comply with all of the above requirements.

3. What is a "room"?

(Source: NYC Administrative Code §§ 27-750, -751, -2058)

- **Size requirements:** Generally, a room must have minimum dimensions of 8 feet x 8 feet x 8 feet, and must have a minimum floor area of 80 square feet.

    - A room which opens into an adjoining room may have a minimum floor area of seventy square feet and a minimum horizontal dimension of seven feet.

    - Other exceptions apply to bedrooms and dining rooms (see those definitions).

- **Lighting requirements:** Every room must have at least one window that opens onto a street, yard, or court on the same lot.

    - The total area of the windows in the room must at least be one-tenth the floor area of the room.

    - Every part of every room in non-fireproof buildings must be within 30 feet of either a court, or a window opening to a street or yard. Dwelling with three rooms or fewer in fireproof buildings must comply with this requirement as well.

- **Usage requirements:**

    - The following are rooms: bedrooms, living rooms, studies, recreation rooms, kitchens.

    - The following are not rooms: closets, halls, stairs, laundry rooms, bathrooms, foyers, dining spaces.

4. What is a "dining space"?

(Source: NYC Administrative Code § 27-2004, -2058; MDL §3-31)

- **Definition:** A dining space is an area used for eating that is located off a living room, foyer, or kitchen. A dining space is not a room.

- **Size requirements:** A dining space has 55 square feet or less of floor space.

- **Lighting requirements:** Dining spaces must comply with the lighting requirements for living rooms. Additionally, windows in dining spaces must have an area at least one-eighth the floor space of the dining space.

5. What are "kitchens" and "kitchenettes"?

(Source: NYC Administrative Code §§ 27-758, -2004, -2071; MDL §3-33)

- **Definition:** Any space used for cooking is either a kitchen or a kitchenette.

- **Size requirements:** A kitchen is a type of living room and has 80 square feet or more of floor area. A kitchenette has less than 80 square feet of floor area.

- **Lighting requirements:** The lighting requirements for "living rooms" apply to kitchens and kitchenettes.

- **Ventilation requirements:** Windows in kitchenettes must have a total area of at least three square feet and be at least ten percent of the kitchenette's floor area.

    - However, if the kitchenette does not have a window, it may have either a) mechanical ventilation or b) a skylight if the kitchenette is on the top floor.

6. What is a "foyer"?

(Source: NYC Administrative Code § 27-2004; MDL §3-31)

- **Definition:** A foyer is an entry space within a dwelling unit that leads to the public hall. A foyer is not a room.

- **Size requirements:** An entry space is a foyer when the floor area does not exceed either a) ten percent of the total floor space of the dwelling unit; or b) twenty percent of the floor area if every living room is larger than 96 square feet.

- If the entry space has a floor area of at least 80 square feet, it may be a living room.

7. What are "basements" and "cellars," and when may they be occupied as apartments?

(Source: NYC Administrative Code §§ 27-2004, -2082, -2083, -2086-87)

- **Definition:** A basement is an enclosed space partly below curb level, but having more than one-half its height above curb level. A cellar is an enclosed space having more than one-half its height below curb level.

- **Occupancy requirements:** Units in basements and cellars of multi-family dwellings have complicated requirements regarding their dimensions, lighting, and ventilation, and whether they may be occupied. In addition, no room in the cellar of a one- or two-family dwelling shall be rented and no member of the family or families occupying the dwelling shall use such room for sleeping**.**

8. What consequences exist for brokers and agents who falsely or inaccurately market a dwelling?

- **Professional consequences:** Dishonest marketing practices violate the REBNY Code of Ethics and Professional Practices, and may subject a member to disciplinary procedures.

- **Legal consequences:** Dishonest marketing practices violate the New York State Consumer Protection Law. Brokers and agents who engage in such practices may be fined or have their license revoked.

9. What are some examples of illegal marketing practices?

- Any advertisement that describes the dwelling differently than appears on the Certificate of Occupancy.

- Listing a cellar or basement as an apartment even if the space may not be rented as a living space.

- Advertising a room as an apartment if the building is categorized as a hotel.