



# Seattle Office for Civil Rights

## First-in-Time Requirements, Seattle’s Open Housing Ordinance, SMC 14.08 Frequently Asked Questions

On January 1, 2017, new requirements for applicants and tenant screening went into effect for properties that are located within the City of Seattle. These new requirements, referred to as “first-in-time” requirements, require landlords to provide notice of their screening criteria to applicants and to offer tenancy to the first qualified applicant who provides a completed application.

The Seattle Office for Civil Rights (SOCR) is responsible for administering and enforcing this ordinance. SOCR also provides technical assistance to rental housing providers. Enforcement of the first-in-time protections begins on **July 1, 2017**.

This Frequently Asked Questions (FAQ) document addresses some of the most common questions about Seattle’s new First-In-Time requirements ([Seattle Municipal Code 14.08](#)). If you have a question that is not covered by this FAQ, please contact SOCR at 206-684-4500 or email us at [discrimination@seattle.gov](mailto:discrimination@seattle.gov).

**IMPORTANT NOTE:** This FAQ should not be used as a substitute for codes and regulations. The reader is responsible for compliance with all code and rule requirements.

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## **A. OVERVIEW OF THE PROTECTIONS**

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The following questions and answers provide an overview of the first-in-time requirements that were added to Seattle’s Open Housing Ordinance, Seattle Municipal Code 14.08, and the effective date for the requirements.

### **1. What do these protections do?**

The Seattle Housing Ordinance, [Seattle Municipal Code 14.08](#), prohibits illegal discrimination and promotes housing and real property availability and access to everyone. In December 2016, the ordinance was expanded to include new “first-in-time, first-in-line” requirements. These requirements impact a landlord’s process for screening applicants for rental housing and offering tenancy to applicants. The ordinance also requires landlords to provide notice of their screening criteria.

### **2. When do these protections go into effect?**

The expanded protections went into effect on January 1, 2017. However, the Seattle Office for Civil Rights will not begin to enforce the Ordinance until **July 1, 2017**.

## **B. NOTICES TO APPLICANTS: POSTINGS AND ADVERTISEMENTS**

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The ordinance requires landlords to provide notice of their screening criteria to prospective tenants and to require landlords to include certain kinds of information in online advertisements. The following questions and answers explore those specific requirements.

### **1. What kind of information is a landlord required to give prospective tenants about their screening criteria and process?**

Before a landlord collects information about an applicant, the landlord must give the applicant notice of the criteria that will be used to screen the applicant. Specifically, the notice must make the applicant aware of:

- The minimum criteria that an applicant will need to qualify;
- All documents or information that they will need to provide to the landlord to conduct the screening;
- How to request additional time if the applicant needs to seek out language interpretation or translation or if the applicant needs a reasonable accommodation for a disability;
- Whether the property is required or has voluntarily agreed to set aside units to serve vulnerable populations; and
- Any different or additional criteria that will be used to conduct an individualized assessment of an applicant’s criminal record, if the landlord conducts one.

Within this document, the above requirements are referred to as “Notice.”

### **2. When must a landlord provide the required Notice?**

The ordinance requires a landlord to provide applicants this Notice at the same time as is required under the [Revised Code of Washington \(RCW\) 59.18.257\(1\) Screening of Prospective Tenants – Notice to Prospective Tenants](#). The RCW requires that notice be given prior to obtaining any information about a prospective tenant.

**3. How and where must the Notice be given?**

Landlords must provide the required Notice before the landlord collects any information about an applicant. The landlord must provide this notice:

- In writing; OR
- By posting it the office of the person leasing the unit; OR
- By posting it in the building that is being advertised for rent; AND
- On any website that the landlord uses to advertise the unit.

**4. When advertising online, may a landlord use a hyperlink to another page with the full Notice or must the requirements be listed on the same page?**

A landlord can either list the required information of the Notice in full text on the advertisement page or use a hyperlink that links to another page with the required information. If a hyperlink is used, the hyperlink must be obvious on the website, must be labeled to convey that it is a hyperlink and to what information it leads, and must take the reader directly to the information on the next page.

**5. What does “minimum threshold for criteria” mean?**

The “minimum threshold” for criteria means the minimum qualification for each criterion that a tenant must have to qualify for housing – for example, if a landlord prefers a tenant to have a credit score of 650, but will accept a tenant with a score of 600. The minimum threshold for the criteria is 600. If a landlord will not accept a tenant with an eviction on their record for the past three years, the minimum threshold for criteria is “No record of eviction for past three years.”

**6. What is an individualized assessment related to criminal records?**

An individualized assessment is a process in which a housing provider will examine whether refusing housing to a person with a particular criminal record is consistent with a business necessity. Each instance requires an assessment of that individual’s criminal record and rehabilitative efforts. Many individualized assessments examine the nature and gravity of the offense or conduct, the time that has passed since the conduct, the age of the individual at the time of the conduct, and rehabilitation efforts. These factors should be considered to ensure that a housing provider is not unnecessarily screening out applicants because of their criminal records. For more information, please see: [HUD’s Guidance on Criminal Record Screening](#).

**7. How much information must a landlord provide about its individualized assessment if the landlord uses one?**

The ordinance requires that landlords include the minimum threshold for the different or additional criteria that will be used for the individualized assessment.

**8. How does the use of a screening agency impact the landlord’s obligations for screening/posting under the ordinance?**

The use of a screening agency does not impact the landlord’s obligation to provide the required Notice or to ensure that the first-in-time requirements are followed. Landlords must ensure that any third-party contractor that provides screening services follows the requirements of the ordinance.

**9. What are the ordinance’s requirements around setting screening criteria (for example, requiring holding deposits or fees, credit checks, requiring applications to be submitted in-**

**person, applicant interviews, requiring attendance at an open house, requiring payment of first or last month's rent, etc.)?**

The ordinance does not outline any requirements or limitations related to specific screening criteria. There may be other Washington State, City of Seattle, or federal laws that outline requirements. To the extent that it is covered, the ordinance requires that screening criteria be applied uniformly to individuals regardless of their membership in a protected class (race, sex, gender identity, religion, sexual orientation, national origin, disability, etc.).

**10. Can a landlord offer different screening criteria for different units?**

The ordinance does not provide any restrictions or requirements on what screening criteria must or may be used. Setting different screening criteria for different units is not prohibited by the ordinance. However, the ordinance does prohibit applying different screening criteria among applicants to the same unit because an applicant is a member of a protected class (e.g. sex, gender identity, race, national origin, religion, disability, etc.).

**C. NOTING THE DATE AND TIME OF A COMPLETED APPLICATION**

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The ordinance requires that landlords note the date and time when they receive a completed application. The following questions and answers provide more details about some of the unique situations that may arise.

**11. When is an application considered complete?**

An application is considered complete when the applicant has provided all the information that the landlord notified the applicant was needed in the landlord's Notice. For more information about the Notice requirements, please see Section B of this FAQ.

**12. When an applicant sends an application by email, when is a completed application considered received?**

The date and time of the sent email will serve as the date and time of receipt of the application.

**13. When an applicant sends an application by mail or places it in the landlord's mailbox, when is a completed application considered received?**

An application is considered received on the date and at the time that the landlord physically picks it up in the mail.

**14. What happens if an applicant sends different pieces of the application via different methods? For example, what if a applicant completes a landlord's form and returns it by email and then pays an application fee in person?**

A landlord must note the date and time of an application when the application is **completed**. An application is complete when the applicant has provided all the information and documents that the landlord provided notice to the applicant as being needed. For instance, if the landlord has given the applicant notice that a completed application consists of a completed form and an application fee, a completed application will contain both items. If the applicant completes and sends a landlord's form on January 15, 2017 at 1:00 pm by email and hand-delivers the application fee on January 16, 2017 at 2:00 pm, the application is complete on January 16, 2017, at 2:00 pm. This would be the date and time that the landlord would use for noting the date and time of receipt.

**15. How does a landlord mark the date and time of completed applications when they receive multiple applications at the same time?**

A landlord must use a fair process for noting the date and time of completed applications that are received at exactly the same time. The landlord must be prepared to explain their process and provide documentation if an issue or investigation arises. A best practice is to create a written policy that outlines the landlord's process and retain all records of their application process.

**16. Are there any unique situations when a landlord must note the date and time of a completed application even though an application is not completed?**

Yes. There are two unique situations when a landlord will mark the date and time of a completed application even though a completed application has not been submitted:

- When an applicant requires additional time to complete an application because they must seek out language interpretive services; and
- Because they have a disability-related need for additional time.

These two areas are explored at length in the following section.

**D. APPLICANTS WITH LIMITED ENGLISH PROFICIENCY AND/OR DISABILITY RELATED NEEDS**

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The ordinance requires that landlords grant a request for additional time to complete an application if an applicant requires additional time to seek out language assistance services or if additional time is required because of a disability-related need. These requests impact the applicant's place in line and the landlord's obligation for noting the date and time that a completed application is received. The following questions and answers explore these obligations more fully.

**17. What are a landlord's obligations to provide additional time to an applicant with limited English proficiency? What does "ensuring meaningful access" mean?**

Ensuring meaningful access is defined as the ability of a person with limited English proficiency to use or obtain language assistance services or resources to understand and communicate effectively. This includes language translation and interpretation that is needed to complete a housing application.

If an applicant requires additional time to seek out language interpretive services to complete an application, the applicant may make the request to the landlord. Upon receiving the applicant's request, a landlord must provide this applicant a reasonable amount of additional time to complete an application. The applicant's place in line would then be held as the date and time of the request. This means that the landlord must note the date and time of the request for additional time instead of the date and time that the completed application is received.

The landlord may ask the applicant to provide "reasonable documentation" of the need. The applicant is required to provide this documentation when they turn in their completed application.

**18. Under what circumstances can an owner require reasonable documentation of a need for additional time to seek language assistance services?**

In most circumstances, an applicant's need of language assistance services will be self-evident. However, in some instances, the amount of time for the need may be supported by written documentation from an agency stating that they assisted an applicant with interpretation, or providing a receipt for language assistance services.

Note: In some circumstances, documentation will not be available or produced when an applicant seeks assistance and no reasonable documentation will exist – for example, if an applicant seeks assistance from a family or community member.

**19. When can a landlord require an applicant to provide reasonable documentation? What happens if the applicant does not provide documentation?**

The landlord first must notify the applicant at the time of the applicant’s request that they will require reasonable documentation of the need. The applicant must provide reasonable documentation when they return their completed application.

If the applicant does not provide the reasonable documentation, the landlord may change the date and time of the completed application from the date of the request for additional time to the date and time that the landlord receives the completed application.

**20. Does this ordinance require landlords to provide language translation and interpretation services?**

No. This ordinance does not require landlords to provide or pay for interpretation services or translation services. It requires landlords to allow applicants additional time to complete the application because they need interpretation or translation services.

However, Title VI of the Civil Rights Act requires programs that receive federal financial assistance to take reasonable steps to ensure meaningful access to individuals with limited English proficiency. In some instances, these programs are required to provide free language interpretation and to provide the translation of important documents in the tenant’s preferred language. For more information, please visit the [United States Department of Housing and Urban Development’s Limited English Proficiency Frequently Asked Questions website](#).

**21. The ordinance requires landlords to provide reasonable accommodations for persons with disabilities. How does this requirement interplay with the first-in-time requirements?**

The Fair Housing Act and the Seattle Municipal Code require that landlords provide reasonable accommodations to individuals with disabilities. This right is not changed or curtailed by the first-in-time requirements. An applicant may request additional time to complete an application because they have a disability-related need for additional time.

**22. How does a request for additional time because of an applicant’s disability-related need (reasonable accommodation) affect an applicant’s place in line?**

If an applicant makes a request for additional time to complete the application because of a disability-related need (a request for reasonable accommodation), the date and time stamp for a completed application is the date of the request (not the date that the completed application is received). The landlord must follow laws related to providing reasonable accommodations to persons with disabilities.

## **E. SCREENING**

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The ordinance requires that landlords screen completed applications in chronological order. The ordinance also outlines certain requirements if the landlord requires additional information that was not

told to the applicant as being required in the landlord's Notice, makes an adverse action, or decides to conduct an individualized assessment.

**23. What order must a landlord screen completed applications?**

The ordinance requires that the landlord screen completed rental applications in chronological order.

**24. What happens if the landlord requires additional information from the applicant to supplement the applicant's completed application?**

If the landlord requires additional information that is not stated in the landlord's Notice, the landlord must notify the applicant that they require additional information, notify the applicant of what information is needed, and provide them at least 72 hours to provide the information.

**25. Are there other situations where a landlord must provide the applicant more time to supplement their completed application?**

Yes. There are three situations where a landlord must do so. After screening a completed application, a landlord must provide time to an applicant to provide additional information if the landlord:

- Requires additional information that was not advertised to the applicant as being needed;
- Takes an adverse action as described in the [Revised Code of Washington 59.18.257\(1\)\(c\)](#); or
- Decides to conduct an individualized assessment.

**26. What is an adverse action listed under [RCW 59.18.257\(1\)\(c\)](#)?**

The Revised Code of Washington does not contain a complete list of adverse actions. However, the law does outline a number of adverse actions, including: rejecting an applicant, approving an applicant with conditions, requiring an increased deposit, requiring a qualified guarantor, requiring last month's rent, or requiring an increased monthly rent.

**27. How much time must a landlord give to an applicant to respond to a request for additional documentation or information?**

The landlord must provide the applicant with **at least 72 hours** to provide the additional documentation.

**28. When does the 72 hours begin?**

The 72 hours begins when the landlord notifies the applicant of what additional information is needed and the timeframe that the applicant must provide the additional information. If by mail, the clock starts on the date and time that the applicant receives the written notice. If by email, the clock starts on the date and time that the email service notes as the date and time sent. If verbally (by phone, voicemail, or in-person), the clock starts on the date and time of the verbal notification.

**29. May a landlord give an applicant more than 72 hours to provide additional information?**

Yes. The landlord may grant the applicant more than 72 hours if they wish.

**30. Does this request for additional information impact the applicant's position in line?**

No. If the applicant provides the information by the specified time period (no less than 72 hours), then the applicant's position in line remains the same date and time that was marked when their completed application was received.

**31. What happens if the applicant does not provide the additional information?**

If the applicant does not provide the additional information by the specified time period (no less than 72 hours), the landlord can consider the application incomplete or reject the application.

**F. OFFERING TENANCY**

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The ordinance requires landlords to offer tenancy to the first qualified applicant who submits a completed application. The landlord is also required to provide the applicant with 48 hours to accept tenancy. The following questions and answers provide more detail about these requirements.

**32. Does the ordinance require landlords to offer tenancy to the first qualified applicant who submitted a completed application?**

Yes. The ordinance requires that landlords screen completed rental applications in chronological order and offer tenancy to the first applicant that meets all the screening criteria necessary for approval.

**33. How much time must a landlord provide for an applicant to accept the offer of tenancy?**

A landlord must provide the applicant with **48 hours** to accept the offer of tenancy.

**34. What happens if the first qualified applicant does not accept the apartment or does not notify the landlord within 48 hours that they accept?**

If the applicant rejects the unit or does not respond within 48 hours, the landlord may screen the next applicant in line. If qualified, the landlord must give this applicant the same 48 hours to accept. If the applicant does not accept within 48 hours or rejects the unit, the landlord may continue through their chronological list until a qualified applicant accepts.

**35. Are there any exceptions to the requirement that a landlord must offer tenancy to the applicant list in chronological order?**

Yes – there are two exceptions to this requirement. It does not apply when the landlord is legally obligated to set aside the unit to serve specific vulnerable populations or if the landlord has voluntarily agreed to set aside the available unit to serve specific vulnerable populations.

Note: The landlord must inform an applicant via their Notice that they are required to or have voluntarily agreed to set aside the units to serve vulnerable populations. This information must be included in the required first-in-time postings and website advertisements. See above section *Notices to Applicants: Postings and Advertisements* for more information.

**36. What is a vulnerable population?**

A vulnerable population includes, but is not limited to, people who are homeless, survivors of domestic violence, low income people, and people referred to the owner by non-profit organizations or social service agencies.

**37. Under what circumstances is a landlord obligated to set aside an available unit to serve specific vulnerable populations?**



There are several instances in which a landlord voluntarily commits to setting aside a certain number or all its housing units to serve vulnerable populations. These situations typically arise when a landlord has contracted with a city, state, or federal agency to set aside housing for certain populations. For example, a landlord participating in a Low Income Housing Tax Credit program commits to a regulatory agreement with the Washington State Housing & Finance Commission. Under this agreement, the landlord commits to rent a certain percentage of their units to households at or below a certain area median income (AMI).

**38. Under what circumstances can a landlord voluntarily set aside units to serve specific vulnerable populations?**

The ordinance does not address how a landlord can voluntarily set aside units to serve specific vulnerable populations. However, the ordinance does require the landlord to state clearly in its notices and online advertisements that they will be doing so.

The ordinance prohibits denying a person housing because an applicant is a member of a protected class (e.g. sex, gender identity, race, national origin, religion, disability, etc.). Landlords may not set aside units based on these protected classes.

**39. How do the first-in-time requirements affect Seattle Housing Authority (SHA) inspection requirements and timelines for tenants who have Section 8 Voucher Holders?**

In most circumstances, the first-in-time requirements and Seattle Housing Authority’s leasing processes will not conflict. In some situations, the SHA inspection requirements may delay a move-in date because of the inspection requirement. However, this would not impact a landlord’s offer for a unit or the requirement to provide the applicant 48 hours to accept the offer. For more information, please visit the Seattle Housing Authority’s [Housing Choice Voucher Program and process](#) page.

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**G. ACCESSORY DWELLING UNITS AND DUPLEXES**

While the other protections of Seattle’s Open Housing Ordinance apply to accessory dwelling units (ADU) and detached accessory dwelling units (DADU), the first-in-time requirements do not apply to ADUs or DADUs. However, the first-in-time requirements do apply to duplexes and triplexes.

**40. Does the first-in-time requirement apply to accessory dwelling units?**

No. The Seattle Municipal Code 14.08 does not apply to accessory dwelling units or detached accessory dwelling units. Detached (backyard cottage) or attached (basement apartment or “mother-in-law”) accessory dwelling units are commonly understood to be separate living units with kitchen, sleeping, and bathroom facilities. They are smaller in size and appearance to the primary home and may (or may not) have separate entrances.

**41. Does the first-in-time requirement apply to dwellings in which the owner resides?**

No. Seattle Municipal Code 14.08 does not apply to renting a dwelling in which the owner (or person entitled to possession) maintains a permanent residence or home.

**42. Does the first-in-time requirement apply to duplexes or triplexes in which the owner resides in one of the units?**

Yes. The first-in-time requirement applies to duplexes and triplexes even if the owner resides in one of the units. The non-owner occupied units are considered separate dwellings, and

therefore are subject to the Seattle Open Housing Ordinance, which includes the first-in-time provisions.

## **H. ENFORCEMENT & REMEDIES**

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The Seattle Office for Civil Rights, a department of the City of Seattle, enforces Seattle's Open Housing Ordinance. The following questions and answers explore how SOCR enforces the ordinance and what consequences may result if a violation occurs.

### **43. Who enforces the ordinance?**

The Seattle Office for Civil Rights (SOCR) is responsible for administering and enforcing the ordinance. SOCR also provides free technical support to housing providers, employers and the public. For more information, please call 206-684-4500 or visit [www.seattle.gov/civilrights](http://www.seattle.gov/civilrights).

### **44. What is SOCR's role in enforcing the Ordinance?**

SOCR conducts fair and impartial investigations when someone alleges a violation of the law; SOCR does not provide legal advice or representation to housing providers, charging parties or potential charging parties. SOCR ensures compliance by playing a neutral role throughout the investigative process.

### **45. How are violations reported?**

An individual who believes that their civil rights have been violated should contact SOCR at 206-684-4500 or [submit an electronic complaint](#). An intake investigator will contact the individual to determine if a complaint can be investigated. Our services are free and impartial, and language and disability accommodations are available upon request.

### **46. How is this ordinance enforced?**

If an individual believes that their civil rights have been violated, the individual may contact SOCR to file a complaint. If the complaint is accepted, SOCR will open an investigation and gather evidence from the parties and other witnesses. After collecting all the relevant evidence, SOCR will determine if the evidence shows a violation. If the evidence does not show a violation, SOCR will close the complaint. If SOCR finds evidence to show a violation, SOCR will work with the parties to resolve the issue. Throughout this process, both parties may voluntarily settle the complaint if they agree to do so. For more information about this process, visit SOCR's website at [www.seattle.gov/civilrights](http://www.seattle.gov/civilrights).

### **47. What happens if a housing provider violates the ordinance?**

If SOCR determines that a violation of the Open Housing Ordinance has been committed, remedies may include (but are not limited to) the elimination of the unfair practice, rent refunds or credits, reinstatement of tenancy, affirmative recruiting or advertising measures, payment of actual damages, damages for the loss of the right to be free from discrimination in real estate transactions, and reasonable attorney's fees or costs, or other remedies that would be ordered by a court. Civil penalties are also allowed under the ordinance.