

Community Housing Notification

Policies & Procedures No. 21-03

October 4, 2021

(revokes Community Housing Notification 20-04)

The Requirements, Recommendations and Guidelines in this communiqué are to be implemented by the housing providers administered under the legislated programs/Operating Agreement identified below:

- Providers under *Housing Services Act, 2011*
- Providers under a Federal Operating Agreement
- Requirement
- Guidelines
- Information Only

Subject

Occupancy Standards for Households Receiving Rent-Geared-to-Income Subsidy

Legislative Reference:

Housing Services Act, 2011, s. 43,

Ontario Regulation 367/11 s.28, s. 29, s. 30, s. 38, s. 42, s. 46

Residential Tenancies Act, 2006

City of Greater Sudbury Municipal By-law # 2011-277

Purpose/Overview

Occupancy standards are used to determine the size and type of unit permissible for a household receiving rent-geared-to-income (RGI) subsidy.

Background

Under Section 43 of the *Housing Services Act, 2011* (HSA), the Service Manager is required to establish local occupancy standards for households receiving RGI subsidy. The occupancy standards must comply with the following prescribed requirements outlined in O. Reg. 367/11, s. 42:

1. The standards must provide for the household to be permitted a larger unit than would otherwise be permitted if a larger unit is reasonably necessary due to a disability or medical condition of a member of the household.

2. The standards must treat a child of a member of a household as a member of the household, for the purposes of the occupancy standards, if the child,
 - i. is in attendance at a recognized educational institution and, while in attendance, does not live with the household;
 - ii. lives with the household while not attending that educational institution; and
 - iii. is dependent, in whole or in part, on the household for financial support.

A “recognized educational institution” means any of the following or a similar institution outside Ontario:

1. A school, as defined in the *Education Act*;
2. A university;
3. A college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
4. A private career college, as defined in the *Private Career Colleges Act, 2005*; and
5. A private school, as defined in the *Education Act*, for which a notice of intention to operate has been submitted to the Ministry of Education in accordance with that Act.

City of Greater Sudbury Municipal Occupancy Standard By-Law

The local occupancy standards must also comply with the City of Greater Sudbury By-Law 2011-277 - Prescribed Standards for the Maintenance and Occupancy of all Property. This by-law states that the minimum area of a bedroom in a dwelling unit by only one (1) person must be at least six (6) square metres (64.5 square feet) in size. In addition, the minimum area of a bedroom in a dwelling unit used as a bedroom by two (2) or more persons is at least four (4) square metres (43 square feet for each person) in size.

Local Rule

The following establishes the occupancy standards for the City of Greater Sudbury. Households may request an additional bedroom under certain extenuating circumstances and if the household satisfies the eligibility criteria for an additional bedroom as outlined below.

In order to be eligible to receive RGI subsidy, households must occupy or transfer to an appropriately sized unit.

Eligibility Criteria

The Housing Registry will determine the most appropriate unit size that the household is eligible for based on the information the household provides on their application. Only one (1) unit size may be assigned to a household.

Exception: A household may only be assigned two eligible unit sizes if the household is deemed eligible for a bachelor and/or a one (1)-bedroom unit.

Smallest Unit Standards

The **smallest** size of unit is one (1) bedroom for every two (2) household members and an additional bedroom if there is an odd number in the household. (i.e., the smallest unit for a household with two (2) parents and three (3) children would be a three (3) bedroom unit).

Household Composition Size	Minimum Bedroom Entitlement
Single person or spousal couple	Bachelor
Two (2) household members who are not spouses of each other	One (1) bedroom
More than two (2) members who are not spouses of each other	One (1) bedroom for every two (2) members plus an additional bedroom when there is an odd number of members

NOTE: With mutual agreement between the housing provider and the household, two (2) members may occupy a bedroom if the occupancy will not violate any other local by-laws such as the City of Greater Sudbury Municipal Occupancy Standard By-Law 2011-277 or provincial legislation (e.g., *Human Rights Code R.S.O., 1990, Fire Protection and Prevention Act, 1997, Building Code Act, 1992, etc.*).

Largest Unit Standards

The **largest** size of unit to be assigned to a household is one (1) bedroom for any two (2) members of the household who are spouses of each other, and one (1) bedroom for each additional member of the household (i.e. the largest unit for a household with one (1) parent with one (1) child would be a two (2) bedroom unit).

Household Composition Size	Maximum Bedroom Entitlement
Single member or spousal couple	One (1) bedroom
Two (2) household members who are not spouses of each other	Two (2) bedroom
More than two (2) members	One (1) bedroom for each member

Unit Size Examples

This directive shall ensure that RGI households are placed on the wait list for the most appropriately sized unit possible.

Household Composition Size Examples	Eligible Unit Size
Single member or spousal couple	One (1) bedroom
Two (2) household members (e.g., single parent and child)	Two (2) bedroom
Two (2) spousal parents, son (4 years old), and daughter (8 years old)	Three (3) bedroom

NOTE: Market rent households are not subject to these occupancy standards. Individuals must be in need of modifications in the unit to be eligible for modified unit (wheelchair accessible) and provide supporting medical documentation as outlined in Social Housing Notification 19-03.

If there is an extenuating circumstance whereas there is not an appropriately sized unit within a household's geographic preference, the household may notify the Housing Registry and a reconsideration of the assigned unit size may be deemed appropriate, by the Housing Registry, if the household satisfies all other eligibility requirements.

Dependent Children Included as Part of the Household

In most cases, the number of dependent children included as part of the household is clear according to the declaration signed by the parent(s) and/or legal guardian or per legal documentation indicating sole or joint custody (e.g., court order, custody agreement, etc). In some situations, it is not as clear whether or not the child is included as a member of the household.

In cases where custody is unclear, and there is no legal documentation for custody and access, the child will be considered to be part of the household of the parent and/or legal guardian who receives, or is eligible to receive the Child Tax Benefit (CTB) payment of the National Child Benefit supplement (NCBS), and/or where the child has primary residence (50% or more of the time). The other parent and/or family member will not have the child included as part of their household for the purposes of determining occupancy standards.

Non-custodial parents and/or family members who have regular overnight visitation with their children will not have their children included as part of the household for the purposes of determining occupancy standards and are not entitled to an additional bedroom.

Custody

Where there is legal documentation (e.g., court order, custody agreement, etc.) presented for custody, the children will be considered to be part of the household where they have primary residence (50% or more of the time). The parent and/or family member who does not provide the primary residence for the children is not entitled to additional bedrooms for the children.

In situations where there is joint custody and both parents or a legal guardian are alternately responsible for the dependent children and their accommodation, the child will be considered to be part of both households for the purposes of determining occupancy standards.

If a member of the household has parental visitation rights to a child, an extra bedroom will not be assigned.

In all cases, appropriate legal documentation must be provided to support the request for an additional bedroom.

Students Living Away from Household

A student attending school away from home is a member of the household, if the student meets all of these conditions:

- is a child of the household;
- is in regular attendance at a recognized educational institution;
- lives with the household while not attending school; and
- dependent in whole or in part, on the household for financial support.

Children in care of the Children's Aid Society

Permanent wards of the Children's Aid Society or of the Crown under the Child and Family Services Act are not considered part of the household.

A child who normally resides with the household, but who is taken into the temporary care of the Children's Aid Society, continues to be part of the household for the purposes of determining occupancy standards provided:

- the length of stay with the Children's Aid Society is short term; and
- there is a plan of care for the child's return to the household.

The household will be asked to provide Children's Aid or legal documentation to confirm the status of the child.

Foster Children

Foster children are **not included** as part of the household for the purposes of determining occupancy standards, nor is the household entitled to an additional bedroom to accommodate the child.

A foster child is a child in the temporary care of an adult who has no legal obligation to support the child. The foster parent may or may not receive an allowance to provide for the child.

Additional Bedrooms - Exceptions to Local Occupancy Standards

In some circumstances, households may request an additional bedroom in excess of the largest unit for which they would normally qualify. Such exceptions to the usual occupancy standards will be considered only at the written request of the household and upon receipt of supporting documentation.

A household may be eligible for an additional bedroom if:

1. one of the spouses requires an additional bedroom because of a disability or severe medical condition and this requirement is documented by a medical professional subject to the following conditions:

- a) The household must submit to City of Greater Sudbury (CGS) Housing Services approved form(s) and required medical documentation with the request;
 - b) If a medical professional has verified that spouses cannot share a bed, the household will not normally qualify for an additional bedroom unless a second bed cannot be accommodated within a shared bedroom; and/or
 - c) A household will not qualify for an additional bedroom based on snoring and sleep apnea, frequent nighttime waking or insomnia, or temporary medical conditions that make sharing a bedroom inconvenient for a short period.
2. An additional room is required to store equipment that a member of the household needs because of a permanent disability or medical condition, and the equipment is too large to be reasonably accommodated in a unit size for which the household would normally qualify. This is subject to the following conditions:
- a. The household must submit to CGS Housing Services approved form(s) and required medical documentation, detailing the size and type of equipment required, with the request.
 - b. Equipment that will not normally qualify a household for an additional bedroom, includes, but is not limited, to the following:
 - i. Continuous positive airway pressure (CPAP) machines;
 - ii. Air-filtration systems;
 - iii. Vaporizers, or humidifiers;
 - iv. Walkers, wheelchairs, or scooters;
 - v. Massage tables; or
 - vi. Exercise equipment.
3. An additional bedroom is required for an individual who is not a member of the household but who occupies the unit to provide full-time overnight support services to a member of the household. The household must submit the CGS Housing Services approved form(s) and required medical documentation with the request.
4. A member of the household is pregnant. The household must submit a letter from the pregnant household member's primary health care provider (certified by the Province of Ontario or other government body) confirming the pregnancy.

Under housed Tenants/Members

A household is under housed if they occupy a unit that is smaller than the smallest unit standard. An under housed household can apply for an internal transfer if the housing provider has units of the appropriate size and the housing provider's internal transfer policy includes these criteria. The household can also apply to the centralized wait list with the Housing Registry. However, no priority is given to under housed applicants on the centralized wait list. They are ranked as new applicants with a current date of application. Households who do not occupy the largest unit within the allowable range of occupancy standards **are not** underhoused. If a larger unit is requested, the household must qualify for the unit size in which they are making application for. The household will be required to apply through the Housing Registry to be added to the centralized wait list and will be ranked according to the current date of application. If the

housing provider has units of the appropriate size and the housing provider's internal transfer policy includes these criteria, the household may request to be added to the internal transfer list.

Over housed Tenants/Members

A household is over housed if they occupy a unit that is larger than the largest unit standard, including any approved additional bedrooms. For example: a couple with two (2) children in a two (2) bedroom unit continues to be eligible if one (1) child leaves the household. However, if the household resided in a three (3) bedroom unit and one (1) child leaves, it would then be considered over housed.

In order to be eligible to continue to receive RGI subsidy, the household must transfer to an appropriately sized unit. The process for over housed households is outlined in Community Housing Notification 20-05.

Review of Occupancy Standards

At the time of the household's annual review and in-year review (if any), housing providers will review the reasons that a household has been granted an additional bedroom to determine if the reason for the exception to the usual occupancy standard remains valid. Households that no longer require the additional bedroom are considered over housed and will be required to transfer to a smaller unit.

Housing providers are required to maintain full documentation of any variations or deviations from the proposed occupancy standards for review during project audits or operational reviews.

Ceasing to Meet Provincial Requirements for RGI Subsidy

Households that do not meet the occupancy standards established in this policy will be deemed ineligible for RGI subsidy.

Households would no longer qualify to receive RGI subsidy under the following conditions:

- Household did not meet an eligibility requirement (i.e. completion of household annual review, default on arrears payments, etc.);
- Household failed to pursue income as required;
- Household member(s) whose income is to be included in the calculation of the geared-to-income- rent payable by the household has not provided their most recent Notice of Assessment with Income Tax and Benefit Return or Proof of Income Statement (Option C-Print), under the *Income Tax Act (Canada)* for the member's taxation year;
- Household has failed to provide information, documents or signed consent for a review within specified time period;
- Household fails to divest residential property within one hundred and eighty (180) days of receiving RGI subsidy;
- Household fails to report changes within thirty (30) days and provide required documentation;
- RGI household paying market rent for twenty-four (24) consecutive months; and
- An over housed household fail to meet the local requirements for over housed households (after twelve (12) months from the date of initial over housed notification).

The housing provider will serve the household with a Notice of Decision letter providing them with an opportunity for internal review. A “Ninety (90) days from date of notice of rent increase to Market rent” letter will also be completed by the Housing Provider and served at the same time.

The service manager may consider extenuating circumstances as it relates to any of the above regulations regarding occupancy standards.

Action Required

This notification is effective immediately.

The CGS Housing Registry will ensure that all applicants on the centralized wait list have been deemed eligible for units within the range of the local occupancy standards. This will be confirmed at the time of application and at each annual update.

Housing providers are required to apply for the most appropriate unit size when assessing the suitability of an available unit for an applicant household and as part of ongoing eligibility reviews. Prior to making a household an offer, housing providers must ensure that the household qualifies for RGI subsidy and valid unit size. If the household no longer qualifies, the Housing Registry must be notified immediately by the housing provider.

Housing providers must ensure they follow the over housed policies and procedures established by the CGS Housing Services when it is determined that a household no longer meets the occupancy standards and is required to move to a smaller unit.

Should you have any questions, please contact your Program Administrator.



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