

SERVICE MANAGER DIRECTIVE 23-01

Effective July 1, 2023, this Directive replaces Service Manager Directive 20-01, issued December 30, 2019

SUBJECT: LOCAL OCCUPANCY STANDARDS AND OVERHOUSED RULES

The policies and procedures in this Directive are to be implemented by the Centralized Wait List Administrator or by Housing Providers funded by the City of Ottawa for the programs checked below:

X	Public Housing Program
X	Rent Supplement Program (commercial)
X	Ontario Community Housing Assistance Program (OCHAP)
X	Community Sponsored Housing Program (CSHP)
X	Provincial Reformed (<i>Provincial, Federal/Provincial Non-Profit</i>)
X	Provincial Reformed (<i>Provincial Co-operative</i>)
	Limited Dividend Program
	Section 26/27
	Section 95 – Private
	Section 95 – Pre 86 MNP
	Pre-86 Urban Native Housing Program
	Post-85 Urban Native Housing Program
X	Part VII.1 Housing Projects under the Housing Services Act, 2011
X	Centralized Wait List (CWL) Administrator

If your program is not checked, this Directive does not apply to your project(s).

PURPOSE:

The purpose of this Directive is to communicate to Housing Providers and the Centralized Wait List (CWL) Administrator the City of Ottawa Local Occupancy Standards and Overhoused Rules effective July 1, 2023. This Directive replaces Directive 20-01 Revised Local Occupancy Standards and Overhoused Rules issued on December 30, 2019.

Recognizing complexity of circumstances, the guidance as it relates to determining whether there are extenuating circumstances now includes the word *typically* (see footnote 4).

LEGISLATIVE AUTHORITY:

Housing Services Act, 2011 sections 42, 43, 46, 48, 52 & 53
 HSA O. Reg. 367/11 sections 32.2, 38, 42, 46, 47, 61
 HSA O. Reg. 316/19
 June 14, 2023, Council Report [ACS2023-CSS-GEN-004](#)

BACKGROUND:

As Service Manager under the [Housing Services Act, 2011](#) (HSA), the City has the ability and the responsibility to establish certain local policies, standards and practices, referred to as local rules, in order to administer, implement and distribute community housing resources, which include access to Rent-Geared-to-Income (RGI) assistance in an equitable and consistent manner for prescribed RGI housing programs.

Local occupancy standards deal with matching household size to unit size by defining the largest and smallest sized units for which a household qualifies as measured by the number of bedrooms and based on composition (number and relationship of adults and children) of the household. When a household occupies a unit that is larger than the largest size permissible, the household is considered “overhoused.” This is usually the result of a change in the household’s composition. Section 38 of Ontario Regulation (O. Reg.) 367/11 allows the Service Manager to establish a process for households to be transferred to a unit that is appropriate and permissible in size. The Province accords these households priority status to help ensure a transfer occurs in a timely manner.

Pursuant to Section 43 of the [HSA](#), City Council adopted the provincial occupancy standards in 2002 as part of the report entitled *Social Housing Local Policies*. In the fall of 2008, Council reviewed and approved the continuation of the provincial occupancy standards as part of the report entitled *Evaluation of Local Policies in Social Housing*.

On September 13, 2017, Council again reviewed and approved the continuation of the provincial occupancy standards as part of the report entitled *Review of Local Rules and Priorities under the [Housing Services Act, 2011](#)*. In addition, Council approved new rules for households that have been deemed “overhoused” and new rules for households that have a dependent child that resides in a household as part of a custody/access order.

On September 23, 2019, the Province of Ontario filed Ontario Regulation 318/19 which amended Ontario Regulation 367/11 under the [Housing Services Act, 2011](#). The amendments included new provincial eligibility rules on refusal of offers, rules on household preferences for a housing project and changes to a Service Manager’s authority to make a local rule where a household ceases to meet occupancy standards. These amendments came into force on January 1, 2020.

On June 14, 2023, Council reviewed and approved updates to local RGI eligibility rules as part of the report entitled [Update to Local Rules Under the Housing Services Act, 2011](#). The following Directive has been updated in regard to Local Occupancy Standards and Overhoused Rules to provide additional operational details regarding the application of these rules.

DIRECTIVES:

Local Occupancy Standards

Local Occupancy Standards are rules associated with the size of unit a particular household is eligible to occupy while in receipt of RGI assistance. The Service Manager’s occupancy standards are based on household composition and are outlined below.

The Local Rules are in addition to the provincial requirements set out in the [Housing Services Act, 2011](#) and supporting regulation(s). In the event of a conflict between the Directive and the legislation, the legislation prevails.

Largest Unit

The largest unit a household is eligible for is a unit that has:

- a) one bedroom for any two members of the household who are spouses;
- b) one bedroom for each additional member of the household; and

c) an additional bedroom if the household makes the request and meets one of the criteria for an additional bedroom as follows and further described in this Directive: Disability or Medical Condition, Pregnancy, and Joint Custody/Access to a Child.

Smallest Unit

The smallest unit a household is eligible for is a unit that has:

- a) one bedroom for every two members of the household who are spouses; and
- b) an additional bedroom if there is an odd number of members in the household.

Despite (a) and (b), if the household consists of one individual or two individuals who are spouses of each other, the smallest unit the household is eligible for is a bachelor unit.

Spouse¹ in relation to a member of a family unit means:

- an individual who, together with the member, has declared to the Service Manager that the individual and the member are spouses, or
- an individual who is residing in the same dwelling place as the member, if the social and familial aspects of the relationship between the individual and the member amount to cohabitation and,
 - the individual is providing financial support to the member; or
 - the member is providing financial support to the individual; or
 - the individual and the member have a mutual agreement or arrangement regarding their financial affairs.

Sexual factors shall not be investigated or considered in determining whether or not an individual is a spouse.

Children Living Away From Home While Attending School

Children of a member of a household are treated as members of the household, for the purpose of determining occupancy standards if:

- a) while attending school at a recognized educational institution² do not live in the household;
- b) they live in the RGI household while not attending the educational institution (e.g., during break periods); **and**
- c) are dependent, in whole or in part, on the household for financial support.

Child³ in relation to an individual, includes a child who the individual has demonstrated a settled intention to treat as a child of their family, but does not include a child placed in the individual's home as a foster child for consideration.

Reviewing Occupancy Standards

The CWL Administrator is responsible for determining the size and type of unit a household is eligible for when they apply and are waiting for RGI assistance. The CWL Administrator reviews local occupancy standards:

- at the time of application;
- annually at the Annual Update;

¹ [O.Reg.316/19](#)

² Recognized educational institution means any of the following or a similar institution outside Ontario:

a. A school, as defined in the [Education Act](#)

b. A university.

c. A college of applied arts and technology established under the [Ontario Colleges of Applied Arts and Technology Act, 2002](#).

d. A private career college, as defined in the [Private Career Colleges Act, 2005](#).

e. 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. [O. Reg. 367/11](#), s. 42 (2).

³ [O.Reg.367/11](#)

- when there is a change in household composition; and
- at the request of the applicant, such as when an additional bedroom has been requested.

Housing Providers are responsible for reviewing occupancy standards:

- at the time of RGI housing offer;
- annually at the Annual RGI Review;
- when there is, or reason to believe there is, a change in household composition; and
- at the request of the household, such as when an additional bedroom has been requested.

Housing Providers determine the number of bedrooms a household is eligible for at the time of housing offer. In the event the household was offered a larger unit than which they are entitled to under local occupancy standards, the offer is not valid, and the Housing Provider must notify the CWL Administrator. Housing Providers also determine the number of bedrooms an overhoused household residing with them is eligible for. The CWL Administrator places overhoused households on the CWL based on the information provided by the current Housing Provider.

When a Housing Provider receives a request from an RGI household for a new household member to be added, the Housing Provider must confirm the new household member is eligible for RGI assistance with the CWL Administrator.

Eligibility for Additional Bedroom

A household may be eligible for an additional bedroom if one of the three circumstances outlined below apply. Please refer to “Appendix A” for verification guidelines.

1. Disability or Medical Condition

A household may be eligible for an additional bedroom when it is reasonably necessary due to a disability or medical condition. Typically, this would include the following situations.

Spousal

Spouses may be permitted an additional bedroom when it is reasonably necessary due to a disability or medical condition.

An additional bedroom is not normally considered reasonably necessary due to snoring, sleep apnea, frequent nocturnal urination, restless leg syndrome, and insomnia.

Medical Equipment

A household may be permitted an additional bedroom when it is reasonably necessary to store large equipment required due to a disability or medical condition.

Equipment that does not normally qualify a household for an additional bedroom includes but is not limited to: continuous positive airway pressure (CPAP) machines, air-filtration systems, vaporizers, humidifiers, walkers, wheelchairs, scooters, massage tables, and exercise equipment.

Caregiver

A household may be permitted an additional bedroom when it is needed to accommodate a caregiver that is required due to a disability or medical condition.

For the purpose of this rule, caregivers are defined as an individuals employed to provide full-time, overnight support services because of a household member’s medical condition or disability.

Caregivers may be funded privately by the RGI household or their family, or in some cases is funded by a community agency or government source such as the Ministry of Children, Community and Social Services (MCCSS).

The caregiver cannot be a residing member of the household and there must be a formal written agreement demonstrating the necessity of full-time overnight support services and professional relationship between the individuals.

2. Pregnancy

A household is eligible for an additional bedroom when a member of the household is pregnant, and the household will become eligible for an additional bedroom for the child based on local occupancy standards.

3. Joint Custody / Access Rights

A household is eligible for an additional bedroom when a member of the household has a formal agreement for:

- Joint custody of a child who is not a full-time member of the household; or
- Visiting rights that includes frequent overnight access to a child who is not a full-time member of the household, **and** the dependent child will reside with the household at least 50% of the time **and** the bedroom is required to accommodate the child.

Where parents share custody of a dependent child, the child will be included under the occupancy standards when they live in the RGI unit at least fifty percent (50%) of the time.

Underhoused Households

Underhoused households live in units with less bedrooms than the smallest unit permissible under local occupancy standards. Households may choose to be underhoused and Housing Providers may permit underhousing when the unit is suitable for the household. Suitability is based on the physical characteristics of the unit in relation to the number, gender, and ages of the household members, and when the occupancy standards outlined in municipal property standards are respected. If acceptable to the household, children of different genders may share a bedroom.

Overhoused Households

A household becomes overhoused when it is no longer eligible for as many bedrooms in a unit as they once did as a result of a change to the household composition or additional bedroom eligibility. The eligible bedroom count is based on the [Housing Services Act, 2011](#) and local occupancy standards.

Notice of Decision: Overhoused

When a Housing Provider determines that an RGI household is overhoused, it shall provide a written Notice of the Decision that they are overhoused, as outlined in [Ontario Regulation 367/11](#), section 61.

The effective date the household is deemed to be overhoused sets the start of Year 1 of being overhoused as set out in the section on Minimum Number of Community Preferences While Overhoused.

The notification date (the date of the Notice of Decision letter advising the household they are overhoused) sets the start of the one-year period in which the household cannot cease to be eligible for RGI assistance ([Ontario Regulation 367/11](#), s. 38(2)).

Adding Overhoused Households to the CWL

Once the household has received notification of being overhoused from their Housing Provider, the Housing Provider must immediately notify the CWL Administrator. This notification shall include a copy of the Notice of Decision letter deeming the household overhoused and a completed Application for Overhoused Tenants/Members form.

Minimum Number of Community Preferences While Overhoused

The CWL Administrator issues written communication to overhoused households seeking the required percentage of community preferences within thirty-one (31) days during Year 1, 2 and 3 of being overhoused as set out below.

The CWL Administrator shall place overhoused households on the CWL once the household has made the required number of community preferences or the thirty-one (31) days have elapsed.

The minimum number of community preferences increases the longer the household remains overhoused as set out below.

Failure of households to make the minimum percentage of community preferences on the CWL or to maintain the minimum percentage of communities on the CWL shall result in all housing communities that have units of the appropriate size within the Service Manager area being deemed as the preference.

The minimum community preferences are set out based on the duration of time the household has been overhoused and not the date they were notified of being overhoused.

Community Selection on the Centralized Wait List (CWL) by Overhoused Households:	
Year 1 (0-365 days)	Households may choose to apply only for units of the appropriate size within their current Housing Provider’s own communities on the CWL. If their current Housing Provider does not have units of the appropriate size within their own communities, the household must indicate a preference for a minimum of 10 communities that have units of the appropriate size on the CWL.
Year 2 (366-729 days)	All households must indicate a preference for a minimum of 30% of the communities that have units of the appropriate size on the CWL.
Year 3 (After 730 days)	All households must indicate a preference for a minimum of 50% of the communities that have units of the appropriate size on the CWL.

Valid Offer of Housing While Overhoused

Valid offers of housing include those made by the current Housing Provider where the overhoused household resides and those made by any other Housing Provider on the CWL. An offer is considered valid when it is an appropriate size unit and is a property that the household has indicated a preference on their CWL application. Please refer to the Service Manager Directive on Local RGI Eligibility Rules for the full definition and guideline for a 'valid offer'.

Overhoused Households Refusing Offers of Housing

Overhoused households may refuse as many valid offers as they choose within the first year of being notified they are overhoused.

However, after the first year of being notified that they are overhoused, refusing a valid offer will result in the household ceasing to be eligible for RGI assistance.

Ceasing to Meet Occupancy Standards

As per [Ontario Regulation 367/11](#), an overhoused household ceases to be eligible for RGI assistance if:

- they occupy a unit that is larger than the largest size permissible in this Directive;
- they have been notified to be overhoused for at least one year since the Notice of Decision letter deeming them overhoused was issued; and
- they have either:
 - refused one (1) valid offer of housing in the second year of having been notified they are overhoused or after; or
 - not followed the process set out in this Directive.

Housing Providers shall provide written Notice of the Decision that they cease to be eligible for RGI assistance, as outlined in [Ontario Regulation 367/11](#), section 61.

The Housing Provider may determine that a household remains eligible for RGI assistance if it is satisfied there are extenuating circumstances⁴. This exception must be well documented and available for review by the Service Manager.

Changes to Overhoused Households

Housing Providers are responsible for notifying the CWL Administrator of changes that affect an overhoused household's placement on the CWL, such as when the household:

- has requested an Internal Review of the overhoused decision, in which case the CWL file will be put on hold (pend file) until resolved
- is no longer overhoused
- has a change in the number of bedrooms they are eligible for
- one or all household member moves out
- is no longer eligible for RGI assistance
- accepts a valid offer
- refuses a valid offer

⁴ Extenuating circumstances are typically unforeseen circumstances which were out of the control of the household, are unlikely to occur again and resulted in the household not being able to meet the requirement in order to remain eligible for RGI.

CWL Administrator Responsibilities

When the CWL Administrator is notified by the Housing Provider of changes that affect an overhoused household's placement on the CWL, they shall update the household's file accordingly.

If an overhoused household refuses a valid offer of housing **and** it has been one (1) year or more since the household was notified they are overhoused, the CWL Administrator shall:

- send a letter to the household confirming they have refused one (1) valid offer of housing; and
- advise the current Housing Provider who will issue the Notice of Decision letter advising the household they are no longer eligible for RGI assistance.

ACTION REQUIRED:

Implement the Local Occupancy Standards and Overhoused Rules outlined in this Directive effective July 1, 2023.

Jason Cooke
Program Manager, Community Housing

Dated: June 27, 2023

APPENDIX “A”
Criteria to Request an Additional Bedroom

A household may qualify for a larger unit than would otherwise be permitted if one of the below criteria is met. Households in receipt of RGI assistance must apply for an additional bedroom with their current Housing Provider. Households not in receipt of RGI assistance must apply for an additional bedroom with the CWL Administrator.

Type of Request	Guidelines for Verification
<p>Disability or Medical Condition</p> <p>Spousal</p> <ul style="list-style-type: none"> • A spouse has a disability or medical condition that makes it reasonably necessary to have a separate bedroom <p>An additional bedroom is not normally considered reasonably necessary for snoring, sleep apnea, frequent nocturnal urination, restless leg syndrome, or insomnia.</p> <p>Equipment</p> <p>A member of the household has a disability or medical condition that requires:</p> <ul style="list-style-type: none"> • A bedroom to store <u>medical equipment</u> that is too large to be reasonably accommodated in the number of bedrooms the household would normally qualify for. <p>Equipment that will not normally qualify a household for an additional bedroom includes but is not limited to: continuous positive airway pressure (CPAP) machines, air-filtration systems, vaporizers, humidifiers, walkers, wheelchairs, scooters, massage tables, and exercise equipment.</p> <p>Caregiver</p> <p>A member of the household has a disability or medical condition that requires:</p> <ul style="list-style-type: none"> • A bedroom to accommodate an individual who provides full-time, overnight support services because of a household member’s disability or medical condition. 	<p>Spousal Verification Guidelines</p> <ul style="list-style-type: none"> • A written medical opinion from a licensed physician outlining the medical condition or disability along with an explanation of the need for an additional bedroom as a result of the medical condition • Completion of the <i>Request for Additional Bedroom Form</i>. <p>Equipment Verification Guidelines:</p> <ul style="list-style-type: none"> • A written medical opinion from a licensed physician outlining the medical condition or disability along with an explanation of the medical equipment that requires an additional bedroom and confirmation that the medical condition or disability cannot be otherwise accommodated • Completion of the <i>Request for Additional Bedroom Form</i>. <p>Caregiver Verification Guidelines:</p> <ul style="list-style-type: none"> • An employment contract or notarized agreement detailing the necessary full-time overnight support services and professional relationship. • Completion of the <i>Request for Additional Bedroom Form</i>.

Type of Request	Guidelines for Verification
<p>The person cannot be a member of the household. There must be a formal written agreement demonstrating a professional relationship between the individuals.</p>	
<p>Pregnancy</p> <ul style="list-style-type: none"> • A member of the household is pregnant, and the household will be eligible for an additional bedroom for the child. 	<p>Verification Guidelines:</p> <ul style="list-style-type: none"> • A document or letter from a medical professional confirming the pregnancy. • Completion of the <i>Request for Additional Bedroom Form</i>.
<p>Joint Custody/Access of a Child</p> <ul style="list-style-type: none"> • A member of the household has a formal agreement for: <ul style="list-style-type: none"> • joint custody of a child who is not a full-time member of the household; or • visiting rights with a child that includes frequent overnight access to a child who is not a full-time member of the household <p>and the child will reside with the household at least 50% of the time and the bedroom is required to accommodate the child.</p>	<p>Verification Guidelines:</p> <ul style="list-style-type: none"> • A legal document such as court order or notarized written agreement that details the dependent child resides with the household at least 50% of the time. • Completion of the <i>Request for Additional Bedroom Form</i>.