Chapter 5

OCCUPANCY GUIDELINES

INTRODUCTION

The Occupancy Guidelines are established by HAKC to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. This Chapter explains the Occupancy Guidelines used to determine minimum and maximum unit sizes for various sized families when they are selected from the waiting list, or when a family’s size changes, or when a family requests an exception to the occupancy guidelines.

A. DETERMINING UNIT SIZE

HAKC does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom. HAKC’s Occupancy Guideline standards for determining unit size will be applied in a manner consistent with Fair Housing guidelines.

For occupancy standards, an adult is a person 18 years or older, or an emancipated minor. All guidelines in this section relate to the number of bedrooms in the unit. Dwelling units will be assigned using the following guidelines:

Generally HAKC will assign one bedroom to two people with the following exceptions:

- Adults of different generations, persons of the opposite sex (other than spouses), and unrelated adults will not be required to share a bedroom.

- Separate bedrooms should be allocated for children of the opposite sex over the age of 4.

- Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant’s family. Overcrowding will not be allowed for accommodation.

- Space will be provided for a family member who is away at college.
The living room will not be used as a bedroom except at the determination of the family and so long as it does not constitute an overcrowded unit.

### GUIDELINES FOR DETERMINING BEDROOM SIZE

<table>
<thead>
<tr>
<th>Bedroom(s) Size</th>
<th>Persons in Household: (Minimum #)</th>
<th>Persons in Household: (Maximum #)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>4 Bedrooms</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>5 Bedrooms</td>
<td>5</td>
<td>10</td>
</tr>
</tbody>
</table>

### B. EXCEPTIONS TO OCCUPANCY STANDARDS

HAKC will grant exceptions from the guidelines in cases where it is the family’s request or the HAKC determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances, and there is a vacant unit available. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:

In all cases, where the family requests an exception to the general occupancy standards, HAKC will evaluate the relationship and ages of all family members and the overall size of the unit.

The family may request to be placed on a larger bedroom size waiting list than indicated by the HAKC’s occupancy guidelines. The request must explain the need or justification for a larger bedroom size, and must be verified by HAKC before the family is placed on the larger bedroom size list. HAKC will consider these requests:

**Person with Disability**

HAKC will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified.

**Other Circumstances**

1. The HAKC will grant exceptions from the guidelines in cases where it is the family’s request or the HAKC determines the exceptions are justified by the relationship, age, sex, health or
disability of family members, or other individual circumstances, and there is a vacant unit available in the appropriate size. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:

- Applicants may request, in writing, to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, (as long as the unit is not overcrowded according to UPCS or local codes). Management is not obligated to transfer the family to a larger unit until an appropriate sized unit becomes available.

- For a three-person family that includes two adults and an infant, the HAKC may allow the family to lease a one-bedroom unit in a desired general occupancy development.

- However, the HAKC will not lease a one-bedroom unit to a three-person family that includes two adults and a member above the age of 4.

2. In cases such as those above, a family that voluntarily accepts a unit that is smaller than what the family is eligible for will be required to sign a statement stating that unless there is an increase in family size the family agrees that they are not eligible for transfer to a larger unit for at least 2 years.

3. The HAKC may offer a family a unit that is larger than required by the HAKC’s occupancy standards, if there is no waiting list for families large enough to fill the vacancy, or the HAKC determines that the common area for the project is insufficient for accommodating any additional large families.

4. In all cases, where the family requests an exception to the general occupancy standards, the HAKC will evaluate the relationship and ages of all family members and the overall size of the unit.

5. The family may request to be placed on a larger bedroom size waiting list than indicated by the HAKC’s occupancy guidelines. The written request must explain the need or justification for a larger bedroom size, and must be verified by the HAKC before the family is placed on the larger bedroom size list. The HAKC will consider these requests:

(a) **Person with Disability**

- The HAKC will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified and meets requirements in the "Service and Accommodations Policy" section of Chapter 1.
(b) Other Circumstances

- Circumstances may dictate a larger size than the occupancy standards permit when:
  
  - Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Requests for a larger bedroom due to medical equipment must be verified by a doctor.
  
  - Requests based on health related reasons must be verified by a medical professional.
  
  - At least on an annual basis HAKC will verify that the space is being used for the intended purpose and the live-in aide remains qualified to perform the function.

6. The HAKC will not assign a larger bedroom size due to additions of family members other than by live-in aide, birth, adoption, marriage, court awarded custody and care or custody pursuant to a durable power of attorney and guardianship of minor children.

7. All individuals occupying the unit and members of the family residing in the unit must be approved by the HAKC. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody and care or custody pursuant to a durable power of attorney, in which case the family must inform the HAKC within ten (10) working days.

- To avoid vacancies, the HAKC may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease.

Live-in Aides

One reason HAKC allows an additional bedroom is related to live-in aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size, the live-in aide must be identified by the family and approved by the HAKC first.

The definition of a live-in aide is recorded in HUD policy which states that a live-in aide is a person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the unit as the remaining member of the tenant family.
The HAKC must approve the person identified as the live-in aide. The HAKC will disapprove such a person if s/he has: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the HAKC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act; (4) demonstrated the ability to comply with HAKC conditions for suitable occupancy. Additionally, the HAKC must establish standards to determine the number of bedrooms needed for families of different sizes and compositions. Consequently, HAKC may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the HAKC’s standards for an unidentified live-in aide.

Occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for these circumstances.

Other Reasonable Accommodation Issues. A family may always request a reasonable accommodation to permit program participation by individuals with disabilities. A family’s composition or circumstances may warrant the provision of an additional bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. The HAKC must consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. The HAKC will document the justification for all granted exceptions.

Medical Equipment. Although HAKC may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the HAKC during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the HAKC must reduce the bedroom standard. However, the HAKC may take further action, if it believes any lease or family obligations were violated.

C. ACCESSIBLE UNITS

(See Fair Housing Disability Unit Provisions in Chapter 1)