



**Homes and
Community Renewal**

NYS HCR's New Occupancy & Accessible Unit Policies

November 1, 2023

External HCR Training

Disclaimer

This presentation is for general information purposes only. The information in this presentation does not, and is not intended to, constitute legal advice. Please consult your attorney to obtain advice with respect to any particular legal matter and updates regarding changing legal interpretations. The information provided in this presentation may not represent the most up-to-date legal interpretations of the law.

Agenda

- **Occupancy Standards Policy**
- **Accessible Unit Policy**

INTRO NOTE: These policies are not meant to be a basis to unhouse people. If you have any questions or concerns about their implications, please reach out to your HCR Representative.

NEW: Occupancy Standards Policy

For general information purposes only. The information in this presentation does not, and is not intended to, constitute legal advice.



**Homes and
Community Renewal**

Occupancy Standard

- Effective November 6, 2023 → Occupancy permitted to be 2 per BR +1

A.	B.	C.*	D.
Bedroom Number	Required Minimum Number of Occupants	Required Maximum Number of Occupants	Optional Maximum Number of Occupants
0	1	2	2
1	1	2	3
2	2	4	5
3	3	6	7
4	5	8	9
5	7	10	11

- NOTE: Mitchel Lama projects should consult their HCR Rep to see if they are eligible for this increase**

- NYC Projects with HPD/HDC involvement generally follow their occupancy policies.**

**All New Construction must be designed and constructed to accommodate the number of people in Column C.*



Homes and Community Renewal

Occupancy Standard: Exception

- Exceptions to this policy include:
 1. Certain housing programs and government policies that may have legally required occupancy policies (such as federal Section 8 programs and foster care placement, 18 NYCRR 442.6); or
 2. Conflicts with local fire, housing maintenance and/or other governmental occupancy laws or codes.
- Reminder: Projects should give applicants the option to apply for, and be on, all waiting lists for any unit size the family is eligible for. If eligible for multiple unit sizes, applicants can reject one unit size, but must remain on the waiting list for the other unit size they are also eligible for.



Occupancy Standard: Waivers

- Some projects already have regulatory occupancy standards. They must get a waiver to increase their occupancy.
- Waiver request form available on FEHO Marketing site:
<https://hcr.ny.gov/OwnerOccupancyCert>
- Other instances where waivers may be sought:
 - Reasonable accommodation to increase occupancy beyond the approved amount
 - Requests to increase occupancy beyond this policy or those in the reg agreement

Occupancy Standard: Owner Certification

It is the policy of the Project listed above to implement the following occupancy standards (listed in the final column) for the affordable housing units financed by New York State Homes and Community Renewal in the Project:

Bedroom Number	Required Minimum Number of Occupants	Optional Maximum Number of Occupants	Project Specific Maximum Number of Occupants
0	1	2	
1	1	3	
2	2	5	
3	3	7	
4	5	9	
5	7	11	

I certify on behalf of the Project, the Owner and the Managing Agent that this occupancy standard does not conflict with:

- (1) Housing programs and government policies that have legally required occupancy policies (such as federal Section 8 programs and foster care placement, 18 NYCRR 442.6); or
- (2) Local fire, housing maintenance and/or other governmental occupancy laws or codes.

Signature of Project Rep.	Date	Project Rep Email
Name & Title of Project Rep.		Project Rep Phone No.
Employer of Project Rep.		



Occupancy Standard: Owner Certification cont'd

LICENSED PROFESSIONAL CERTIFICATION (REQUIRED)

I am an NYS-licensed (check one) Architect or Attorney. I certify that the occupancy standard set out above does not conflict with local fire, housing maintenance and/or other governmental occupancy laws or codes.

_____ Signature	_____ Date	_____ License Number	_____ Employer
_____ Name & Title	_____ Address & Email		

NYS HCR SECTION

Accepted By: _____ Signature	_____ Date	_____ Name & Title
---------------------------------	---------------	-----------------------

New York State Homes and Community Renewal
Form Date: 10/11/2023

<https://hcr.ny.gov/marketing-plans-policies>

- **Must be signed by a NYS-licensed attorney or architect AND approved by HCR**

NEW: Accessible Unit Policy

For general information purposes only. The information in this presentation does not, and is not intended to, constitute legal advice.



**Homes and
Community Renewal**

Accessible Unit Policy

This policy applies to all NYS HCR-funded housing with Accessible Units. NYC Project with HPD/HDC involvement generally follow their occupancy policies through Housing Connect 2.0.

If you are unsure whether this policy applies to your project, please contact your designated HCR representative.

Accessible Unit Definition

All units that, pursuant to the terms of the Project's HCR funding, are fully accessible, adapted and move-in ready for applicants with mobility or hearing/visual impairments.

This term also refers to units that must be built pursuant to the 5% and 2% accessibility design requirements under Section 504 of the Rehabilitation Act.

Accessible Unit Policy – Best Practices

- It is important to establish local referral sources for the Accessible Units so that when vacancies arise, they are able to be filled by individuals that critically need the accessibility features.
- If the number of eligible applicants on your Accessible Unit waitlist is fewer than 10 times the number of Accessible Units, it is important to engage in a continuous, robust outreach and marketing effort so that vacancies do not affect the project.
- Contact HCR if you need assistance or have questions.



Marketing and Leasing Accessible Units – Marketing & Waitlist

- Housing providers must continue to accept applications and keep the waitlist open for Accessible Units even if the general waitlist is closed
- All public listings, both in NYHousingSearch.gov and elsewhere, must show that the waitlist is open for Accessible Units
 - Because supportive housing units are referral-based and therefore are not marketed, supportive housing providers should work with their referral/service organizations to address vacant Accessible Units. However, project should still obtain HCR approval regarding the filling of that unit with a non-disabled household.
- Reminder: Persons with disabilities must be able to apply to any unit(s) or waitlist(s) that are available on an equal basis as those who do not require accessibility features
- Policy does not waive or replace any duties with regard to reasonable accommodations. Please see additional guidance and information from the New York State Division of Human Rights (<https://dhr.ny.gov/system/files/documents/2022/05/nysdhr-disability-rights-handbook-072020.pdf>)



Marketing and Leasing Accessible Units - Leasing

- For occupied buildings, a preference for Accessible Units must be given first to current tenants who are in need of the special design features of the unit, and second for those that are on the waiting list and/or apply to the project
- For Accessible Units occupied by households that do not require the accessible features, the housing provider must facilitate a relocation to an available, comparable unit when a household that requires accessibility features needs to move into the Accessible Unit. *This is at the owner's expense.* A model lease rider is provided in materials.
- In ***extremely limited instances***, a housing provider may apply for a waiver to fill a vacant accessible unit with a household that does not require the accessibility features.



Marketing and Leasing Accessible Units: Waiver

- Form available here: <https://hcr.ny.gov/AccessibleUnitWaiver>

Accessible Unit Waiver Request

An Accessible Unit may not be leased to an applicant that does not need the accessibility features unless this waiver is completed and signed by an New York State Homes and Community Renewal (NYS HCR) representative, in line with the [Accessible Unit Policy](#). A waiver from NYS HCR must be obtained for each Accessible Unit *each time* it will be leased by an applicant not in need of the Accessible Unit's features. Failure to obtain a necessary waiver may result in a finding of noncompliance and any additional penalties and/or remedies as to be determined by NYS HCR. Completion of this waiver affirms that the following is true.

I certify on behalf of the Project, the Owner, and the Managing Agent that:

1. The above-referenced Accessible Unit has remained vacant for 60 days even after completion of the Required Outreach and Marketing (as defined in [NYS HCR's Accessible Unit Policy](#));
2. The Required Outreach and Marketing period lasted the required number of days:
 - a. For initial lease-ups or remarketing, the required number of days is 60 days,
 - b. For existing projects that have a vacancy, the required number of days is 45 days
3. Outreach and marketing continued during the vacancy period (even if beyond the 45- and 60-day required periods);
4. NYHousingSearch.gov was updated to reflect the vacancy for the entire marketing and outreach period (2. a or b, above);
5. An advertisement for the Accessible Unit(s) was provided to NYS HCR and posted on NYS HCR's lottery page for the entire marketing period (<https://hcr.ny.gov/lotteries>);

A waiver is needed for each separate Accessible Unit. Every waiver request will be reviewed on a case-by-case basis

Marketing and Leasing Accessible Units: Waiver cont'd

6. Applications for Accessible Units are accepted on a rolling basis and the waitlist for Accessible Units continues to remain open, even if the general waitlist is closed;
7. A lease rider will be provided to all households not in need of the Accessible Unit's features with language that the household agrees to relocate to an available, comparable unit if another household requires the accessibility features of the Accessible Unit (model language is provided in NYS HCR's Accessible Unit Policy). Additionally, the Project will pay all moving costs associated with the move; and
8. I have provided documentation of all marketing and outreach efforts to the NYS HCR representative for this project.

HCR reserves the right to suggest an alternative course of action instead of granting a waiver

Signature of Project Rep.

Date

Project Rep Email

Name & Title of Project Rep.

Project Rep Phone No.

Employer of Project Rep.

NYS HCR SECTION

Accepted By:

Signature

Date

Name & Title



**Homes and
Community Renewal**

Marketing and Leasing Accessible Units: Required Outreach

- All methods and community contacts outlined in the Affirmative Fair Housing Marketing Plan;
- The referral agency indicated in the project's NYS HCR funding application and/or marketing plan
- The New York Association for Independent Living (NYAIL): <https://ilny.us/>; (info@ilny.org)
- At least 3 independent living centers or other organizations that serve such persons (<http://www.acces.nysed.gov/vr/independent-living-centers>)
- The District Office for the NYS Commission for the Blind <https://ocfs.ny.gov/main/cb/district-contacts.asp>
- The relevant Student and Youth Services Transition representative: <http://www.acces.nysed.gov/vr/student-and-youth-transition-services>
- The relevant district office for the ACCESS-VR (Vocational Rehabilitation) program: <http://www.acces.nysed.gov/vr/district-offices>
- The local NY Connects office: <http://www.nyconnects.ny.gov/contact-us>
- All hospitals under the "Hospital" tab for the Project's County AND Region that contain the word "rehabilitation" in the title: <https://profiles.health.ny.gov/>
- All nursing homes under the "Nursing Homes" tab for the Project's County AND Region that contain the word "rehabilitation" in the title: <https://profiles.health.ny.gov/>

Marketing and Leasing Accessible Units: Required Outreach

- At least 2 not-for-profit organizations that serve people who are blind or have vision loss
- At least 2 not-for-profit organizations that serve people who are deaf or have hearing loss
- New York's Office of the Chief Disability Officer; <https://www.ny.gov/programs/office-chief-disability-officer> (accessibility@exec.ny.gov)
- The New York Alliance for Inclusion and Innovation: (cnapierski@nyalliance.org)
- Helen Keller Services: <https://www.helenkeller.org/contact-us/> (info@helenkeller.org)
- The local Department of Social Services – List available here: <https://ocfs.ny.gov/main/localdss.asp>
- The Health Home agencies for the county:
https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/hh_map/index.htm
- The 2 closest Healthy Family New York Program Sites: <https://www.healthyfamiliesnewyork.org/sites2.htm>
- The local Continuum of Care organization listed in this map: <https://caresny.org/continuum-of-care/#CoC-Planning-Map>. If there is no organization listed for the area, include the Balance of State Continuum of Care at bos.nys@otda.ny.gov
- The local agency on aging: <https://aging.ny.gov/local-offices>
- Any other referral agency or organization that can make referrals to the general applicant pool and/or waiting list of the Project

Where the contact information is not already provided in the list above, the Owner/Managing Agent must perform diligence to ensure that the email address that they are sending marketing materials to reaches an actual person that works with placement of individuals and/or gathering of resources for individuals. It cannot be a general contact email.

Accessible Unit Policy – Monitoring

- At time of Management and Occupancy Review/Audit, the Housing Provider will provide NYS HCR representative:
 - a. Confirmation and documentation (if requested) that the Waiting list is open for the Accessible Units, continued marketing and outreach is occurring for these units
 - b. A list of all Accessible Units and confirmation of which are filled by households requiring the units.
 - **Reminder: Verification of a disability is not required where the disability is readily apparent or already known to management**
 - c. If an Accessible Unit is occupied by non-disabled tenant(s), NYS HCR representative will ensure NYS HCR waiver and lease provision are on file.



Contact

Fair and Equitable Housing Office

New York State Homes & Community Renewal

feho@hcr.ny.gov | <https://www.hcr.ny.gov/>

