

CITY OF KNOXVILLE HOME PROGRAM

CHDO SET-ASIDE

PROGRAM REQUIREMENTS

January 2009

The Community Housing Development Organization (CHDO) set-aside is made available from an entitlement grant the City of Knoxville receives from the U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnerships Program. The City and the CHDO must abide by the federal regulations governing the HOME Program. These regulations are at 24 CFR Part 92 of the Code of Federal Regulations and were published in the Federal Register as follows: Final Rule on September 16, 1996 and subsequently update through December 22, 2004.

Before the City reserves or commits funds for a CHDO project, the City and CHDO must enter into a written agreement ensuring compliance with the HOME Program requirements. The major requirements are as follows:

1. **Affordability** - All housing assisted with HOME funds must meet affordability requirements. All HOME funds must be repaid if the housing does not meet the affordability requirements for the specified time period.
2. **Income limits** - The income limits to be used for compliance with HOME funded affordable housing will be computed annually by the U.S. Department of Housing and Urban Development. The current income limits for FY 2008 by family size are:

Family Size	1	2	3	4	5	6
50% - Very Low Income Limits	20,500	23,400	26,350	29,250	31,600	33,950
80% - Low Income Limits	32,750	37,450	42,100	46,800	50,550	54,300

3. **Maximum Per-Unit Subsidy Amount** - The following limits are currently effective for Knoxville. Actual HOME assistance will be limited to what is necessary to provide affordable housing. These amounts are subject to change.

Efficiency	\$69,472
1-Bedroom	\$79,636
2-Bedroom	\$96,837
3-Bedroom	\$125,275
4-Bedroom	\$137,513

4. **Homebuyer/First Home Programs** - The prospective purchaser household must meet two key eligibility criteria in order to participate:

- a. In the case of a contract to purchase existing housing, must be low-income at the time of purchase; that is, the purchaser must have a gross annual income that does not exceed 80% of the median income for the area, adjusted for family size (see income limits above). In the case of a contract to purchase housing to be constructed, the applicant must be low-income at the time the contract is signed.
- b. The applicant must occupy the property as the principal residence.

Recapture restrictions: The homeownership housing will be subject, for a period of up to 15 years to resale or recapture restrictions established by the City and approved by HUD. When HOME funds are used to assist homebuyers in acquiring homes, the housing will be subject to recapture provisions for a minimum period of five years where the per unit amount of HOME funds provided is less than \$15,000; 10 years where the per unit amount of HOME funds provided is \$15,000 to \$40,000; and 15 years where the per unit amount of HOME funds provided is greater than \$40,000. The following recapture restrictions will apply:

The City will recapture the HOME investment to the homebuyer out of net proceeds. The HOME investment amount may be reduced on prorated basis for the time the homeowner has owned and occupied the unit measured against the required affordability period. For example, if a 10- year Deferred Payment Loan is used to finance the HOME assistance to the homebuyer, the HOME loan balance amount will be reduced by 10% per year, if all the program requirements are met.

If the net proceeds (i.e., the sales price minus loan repayment (other than HOME funds), and closing costs) are not sufficient to recapture the balance owed on the Home investment to the homebuyer as determined above plus enable the homeowner to recover the amount of the homeowner's downpayment and any capital improvement investment made by the owner since the purchase, the City and the owner will share the net proceeds.

The recapture provision will be enforced through the homebuyers financing agreement with the City that will be secured by a Deed of Trust. The City subsidy will be in the form of a Deferred Payment Loan (DPL).

5. Project Proceeds Restrictions - The City will determine on a case-by-case basis whether CHDO set-aside funds that a CHDO recovers from a project (proceeds) are required to be returned to the City. In the event that a CHDO is allowed to retain CHDO proceeds to use toward eligible affordable housing activities, a separate written agreement will be executed to cover the use of the CHDO proceeds.

6. Rental Housing - Only units receiving HOME monies are considered "HOME assisted units" and HOME expenditure limits, rent and occupancy rules only apply to HOME assisted units.

a. Rent Restrictions: Every HOME assisted unit is subject to rent controls designed to make sure that rents remain affordable to lower-income families over time. There are two HOME rents established for projects:

1) Low HOME Rents: for projects containing five or more assisted rental units, or in the case of an owner who has multiple projects which together contain a total of five or more assisted rental units, a minimum of 20% of all the HOME assisted units must have rents, adjusted for utilities, that do not exceed 30% of the gross income for a household earning 50% of the median income for the area; and

2) High HOME Rents: all other HOME assisted units in each project must have rents, adjusted for utilities, that do not exceed the lesser of Section 8 Fair Market Rents or 30% of the adjusted income for a household earning 65% of the median income for the area.

The Low and High HOME rents (including utilities), as of April 1, 2008 for Knoxville by number of bedrooms per unit are:

# Of Bedrooms	0	1	2	3	4
Low HOME Rent	457	525	633	760	848
High HOME Rent	457	525	633	848	875

Adjustments for utility allowances for tenant-paid utilities such as water, sewer, electric, heating, etc. reduce the maximum allowable rents. The amount of the adjustment varies depending on the type of building (single-family, duplex, etc.), and the type of utilities provided (gas, electric, etc.). The amount of each deduction will be in accordance with Knoxville's Community Development Corporation's (KCDC) utility allowance schedule for the Section 8 Existing Housing Program. The Low and High HOME rents for each unit's bedroom-size are computed annually by the U.S. Department of Housing and Urban Development.

To protect existing tenants residing in HOME assisted projects from economic displacement, no rehabilitation project will be undertaken that would result in a rent increase such that the total of the after-rehabilitation tenant paid rent plus applicable utility allowances would exceed 30% of the tenant's gross monthly income. This rule applies to all properties occupied prior to rehabilitation regardless of whether the occupied unit(s) will be assisted with HOME funds.

b. Occupancy Requirements: The occupancy of all HOME assisted units must be restricted to low-income tenants as follows:

- 1) For projects containing five or more assisted rental units, or in the case of an owner who has multiple projects which together contain a total of five or more assisted rental units, a minimum of 20% of all the assisted units must be occupied by tenants with adjusted household incomes that do not exceed 50% of the median income for the area adjusted for family size paying no more than the Low HOME Rents; and
- 2) All other assisted units must be occupied by tenants with adjusted household incomes that do not exceed 60% of the median income for the area adjusted for family size.¹

No exceptions to the occupancy rules noted above are made for existing tenants who reside in a project prior to rehabilitation. Therefore, occupied units are only eligible for assistance to the extent that existing tenants will not have to be physically displaced in meeting these occupancy requirements. However, where a project consists of more than one unit, a mixed-income project is allowable as long as private financing is used to rehabilitate the non-income/rent restricted units.

c. Minimum Affordability Period: Rent and occupancy restrictions remain in force for the minimum affordability period. The minimum affordability period depends on the amount of HOME financing as follows:

REHABILITATION OR ACQUISITION OF EXISTING RENTAL HOUSING:

TOTAL HOME FINANCING LESS THAN \$15,000 PER UNIT: Minimum affordable period shall be for five years following project completion.

TOTAL HOME FINANCING \$15,000 to \$40,000 PER UNIT: Minimum affordable period shall be for ten years following project completion.

TOTAL HOME FINANCING OVER \$40,000 PER UNIT: Minimum affordable period shall be for 15 years following project completion.

NEW CONSTRUCTION OR ACQUISITION OF NEWLY CONSTRUCTED RENTAL HOUSING:

Minimum affordable period shall be for 20 years following project completion.

During the minimum affordability period, the owner must lease all assisted units to income eligible tenants for no more than the maximum allowable rents. The maximum allowable rents and utility allowances must be recalculated annually subject to review and approval by the City. New rent information will be published annually by the U.S. Department of Housing and Urban Development to help all owners establish new maximum allowable rents for their projects. Should the maximum allowable rent amount decrease from the previous year's calculation, the rents for assisted units must be decreased accordingly for all new or renegotiated leases. However, rents are not required to be lower than the HOME rent for the project in effect at time of project commitment. If the maximum allowable rent amount increases, the owner may

¹ An exception to this requirement is made for projects containing 10 or more HOME assisted units. Ten percent of the HOME assisted units in larger projects may be occupied by households having adjusted incomes up to 80% of the median income adjusted for family size.

determine whether to implement a rent increase for any new or renegotiated leases. Before any annual rent increase may be implemented, tenants must be given at least 30 days written notice of the increase. Increases in rent are also subject to any other governing provision(s) of the lease agreement.

During the affordability period, the owner is also responsible for certifying the incomes of all initial tenants who lease an assisted unit. In addition, the owner must provide the City with an annual recertification of the incomes of all tenants residing in HOME assisted units.

Should an annual income re-certification indicate that a tenant's household income exceeds 80% of the median income for the area, he/she may not be asked to move. However, an over-income tenant's rent must be adjusted such that he/she pays a minimum of the lesser of 30% of the household income for rent and utilities, or the amount payable by the tenant under State or local law. After the over-income tenant vacates the HOME assisted unit, restricted rent levels and occupancy restrictions must be reinstated.

Tenant Assistance Policy - The CHDO/owner must adhere to all provisions of the City's "Tenant Assistance Policy" (TAP) and must cooperate with the City in administering the provisions of the TAP including:

- 1) Informing all existing tenants of the application for HOME assistance and that a City representative may be contacting them to discuss the Program;
- 2) Providing the City with initial information regarding existing tenants (such as names, phone numbers, family-size, income, etc., and arranging meetings as necessary) and notify the City of any changes in tenancy;
- 3) Once the application for HOME assistance has been approved, the owner must notify all prospective new tenants who apply to move into vacant units of any proposed rent increase that will be implemented following rehabilitation completion. The owner must also notify prospective new tenants that their occupancy may be subsequently terminated in order that the rehabilitation work be completed or due to the occupancy restrictions that will be imposed following rehabilitation completion.

If the owner does not inform prospective new tenants as noted above, the rehabilitation project will be canceled if the rehabilitation would then result in the physical or economic displacement of the new tenant.

- 4) Offering existing tenants residing in the Property prior to acquisition or rehabilitation an opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling in the property upon completion of the project.
- 5) If temporary relocation of an existing tenant is required in order to carry out the rehabilitation work, the owner must:
 - a. Provide a suitable vacant unit to the tenant, if available, for the temporary relocation period at a rent equal to or less than the current rent charged to the tenant; or
 - b. If the owner does not have a unit available, then he/she must help the tenant locate a suitable replacement unit.

- c. Reimburse the tenant for all reasonable out-of-pocket increases housing costs and moving expenses related to the temporary relocation. The cost of temporary relocation is an eligible HOME project expense.

Tenant Selection Policy - An owner of rental housing assisted with HOME funds must adopt written tenant selection policies that:

- 1) Are consistent with the purpose of providing housing for very low-income and low-income families;
- 2) Are reasonably related to Program eligibility and the applicant's ability to perform the obligations of the lease;
- 3) Provide for the selection of tenants from a waiting list in the chronological order of their application insofar as is practicable; and
- 4) Provide for the prompt written notification to any rejected applicant of the grounds for rejection.

In marketing vacant units, the owner must carry out affirmative marketing efforts as described in the HOME Program Agreement.

Lease Provisions - A lease must be executed between the property owner and a tenant for all HOME assisted units. The lease must be for a period of not less than one year, unless a lesser period is mutually agreed upon by the property owner and the tenant. Specific provisions that may not be included in the lease are listed in the HOME Program Agreement.

- 1) Agreement to be sued. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- 2) Treatment of property. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with state law;
- 3) Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- 4) Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- 5) Waiver of legal proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- 6) Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury;
- 7) Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

- 8) Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant may, however, be obligated to pay costs if the tenant loses.

Termination of Tenancy - An owner may not terminate the tenancy, or refuse to renew the lease, of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause. Written notice must be provided at least 30 days in advance of any termination or refusal to renew which specifies the grounds for the action.

Tenant Participation Plan - The CHDO must adhere to a fair lease and grievance procedure approved by the City and provide a plan for a follow a program of tenant participation in management decisions.

Program Monitoring - The City will regularly monitor each HOME assisted rental project for compliance with program requirements. On site inspections for compliance with all applicable local housing quality standards and codes will be made at least once every three years for projects containing 1-4 units, once every two years for projects containing 5-25 units, and annually for projects containing 26+ units. In addition, the City will annually review the owner's compliance with all written agreements. Noncompliance with program requirements will result in default of all HOME financing, and the balance(s) of any City provided financing would become immediately due and payable.

7. Property Standards - All housing that is assisted with HOME/CHDO funds, must meet all applicable codes, ordinances, and zoning adopted by the City of Knoxville. When applicable the housing must meet the accessibility requirements of 24 CFR Part 8.

All properties rehabilitated with HOME/CHDO funds must comply with the City Community Development Department's Neighborhood Housing Standards, existing housing codes related to health and safety, lead-based paint requirements, and cost-effective energy conservation measures. In addition, property on, or eligible for, the National Register of Historic Places must comply with the Secretary of Interior's Standards for rehabilitation of Historic Properties.

New construction of infill housing must meet visitability standards as required by the City. All new housing must qualify and receive Energy Star for New Homes designation. All new housing (regardless of location) must meet the City of Knoxville Infill Housing Guidelines as determined by the Community Development Infill Housing Review Committee.

Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280 and must comply with applicable State and local laws and codes.

The owner of rental housing assisted with HOME funds must maintain the housing in compliance with the local housing quality standards and code requirements.

8. Religious Organizations - Please see 24 CFR 92.257.

9. Other Federal Requirements - The CHDO must comply with all federal laws and regulations described in subpart H of the HOME regulations, except for environmental and intergovernmental

review responsibilities. These requirements include: Equal Opportunity and Fair Housing, Affirmative Marketing; Displacement, Relocation and Acquisition; Labor; Lead-Based Paint; Conflict of Interest; Debarment and Suspension; and Flood Insurance. .

10. Lead Based Paint - The CHDO will comply with the U.S. Department of Housing and Urban Development (HUD) regulations covering lead-based paint in federally associated housing. HUD has issued regulations under *Sections 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992*, which is Title X of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, which is the basic law covering lead-based paint in federally assisted housing. The new regulations appear within Title 24 of the Federal Regulations as Part 35 (24 CFR). The regulation, "Requirement for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance," was published in the Federal Register on September 15, 1999. The regulations include requirements for disclosure and notifications, paint testing, risk assessments, hazard reduction, safe work practices, prohibited methods of paint removal, occupant protection and ongoing maintenance.

11. Affirmative Marketing - The CHDO must affirmatively market vacant units and assisted units that become vacated during the required affordability period. In order to comply with the affirmative marketing requirements and procedures established by the City, the CHDO and/or Owner must comply with the following:

- 1) During the required affordability period, the CHDO shall inform and solicit applications from persons not likely to apply for the housing without special outreach by notifying the Knoxville Area Urban League immediately when it is known that a vacancy will occur and/or provide the unit as a referral for tenants on KCDC's Existing Housing waiting list, and
- 2) Keep data on:
 - A) The racial, ethnic, and gender characteristics of
 - tenants occupying assisted units before rehabilitation
 - buyers/tenants moving from and into assisted units in the project initially after project completion
 - applicants for tenancy/purchase of assisted units
 - B) How the applicants heard about the housing opportunity

INFORMATION REGARDING APPLICANTS FOR INITIAL OCCUPANCY OF ASSISTED UNITS MUST BE PROVIDED TO THE CITY WITHIN 120 DAYS FOLLOWING REHABILITATION COMPLETION.

- 3) The CHDO will also keep during the required period of affordability, information on all vacancies of assisted units, and copies of all newspaper advertisements to fill vacancies of assisted units. COPIES OF THESE ADVERTISEMENTS MAY BE SUBMITTED DIRECTLY TO THE CITY.

If the project consists of five or more assisted units, the CHDO/Owner must also:

- 1) Use the Equal Housing Opportunity logo type or slogan in advertising vacant assisted units during the required affordability period.

2) Advertise assisted unit vacancies in the Knoxville News Sentinel if more than four such vacancies exist in a project and there is not a sufficient waiting list to fill these vacancies, or to list the property with KCDC's list of properties available for Rental Assistance Certificate holders during the required affordability period.

12. **Records and Reports** - During the required affordability period, the CHDO must keep records adequate to document compliance with the HOME Agreement all HOME Program requirements; such as: loan documents; contracts; invoices; materials; personnel and payroll records; conditions of employment; books of account; and any other documentation pertinent to the project development and the disposition of the Loan proceeds; as well as records of all written agreements; tenant leases; income certifications; rent and utility allowance determinations; records of the income and expenses related to the rental of the property; and any other documentary data pertaining to the rental of, sale, and occupancy of, the property. The CHDO shall permit the City, the United States Department of Housing and Urban Development, the Comptroller of the United States, and their designees to have full and free access to these records for the purpose of making audits, examinations, excerpts, and transcriptions. For monitoring purposes, the owner shall maintain all records needed to document compliance with the HOME Program Agreement for at least three years after completion of the minimum affordability period.

13. **Restrictive Covenants** - In addition to a Promissory Note and Deed of Trust securing HOME financing, the CHDO and the City will enter into an agreement creating a Restrictive Covenant enforcing the affordability requirements for HOME assisted units for the minimum affordability period.