

DISTRICT OF COLUMBIA HOUSING AUTHORITY  
NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority ("DCHA") hereby gives notice of intent to take final rulemaking action to amend Title 14 by adopting "Chapter 83 "HCVP: Rent and Housing Assistance Payments" in not less than fifteen (15) days from the date of publication of this notice in the D.C. Register. The Board of Commissioners of DCHA finds good cause to publish these proposed regulations for less than thirty days as the emergency rules published on January 21, 2005 will expire prior to the next regularly scheduled meeting of the Board of Commissioners on May 11, 2005, and the modifications to the emergency regulations as incorporated in these proposed regulations are necessary to reconcile these regulations and program operations to existing federal regulations.

**DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS**

**TITLE 14  
CHAPTER 83**

**RENT AND HOUSING ASSISTANCE PAYMENTS**

**8300 PAYMENT STANDARD AMOUNT**

8300.1 Fair Market Rents. HUD publishes annually the fair market rents for each market area in the United States.

(a) DCHA uses the fair market rent published by HUD annually for the Washington, D.C. Metropolitan Statistical Area.

(b) The Fair Market Rent (FMR) is set by HUD for the District at the 50<sup>th</sup> percentile rent to provide a broad range of housing opportunities throughout the District in order to assist in achieving deconcentration objectives.

8300.2 Payment Standard Schedule. The Payment Standard schedule is used to calculate the monthly housing assistance payment to a participant household.

(a) After publication by HUD of the Fair Market Rent, DCHA annually adopts, by resolution of the Board of Commissioners, the Payment Standard Schedule for the upcoming year for each unit size.

(b) The Commission may set the Payment Standard amount for each size of unit at any level between 90 percent and 110 percent of the Fair Market Rent, or up to 120 percent as permitted under 8300.2(d) below.

(c) Within the basic range for Payment Standards as specified in 8300.2(b) above, a separate payment standard may be set for a designated part of the FMR area.

(d) Exception Payment Standards between 110 percent and 120 percent may be approved by the HUD Field Office for an exception area for all size units, or all units of particular sizes in an exception area.

8300.3 HUD Discretion. Payment Standard Schedules are subject to review by HUD and HUD, at its discretion may modify payment standard amounts for any unit size on the DCHA Payment Standard Schedule.

### **8301 REASONABLE RENT TO OWNER**

8301.1 Lease Approval. DCHA may not approve a lease unless it determines that the initial gross rent does not exceed the LESSER OF:

(a) The reasonable rent as determined by DCHA in accordance with this Chapter; and

(b) Forty percent (40%) of the participant's adjusted monthly income.

8301.2 When Determinations Required. DCHA is required to make a determination of rent reasonableness upon any of the following eventualities:

(a) At initial lease up, or lease up upon transfer;

(b) Before any increase in rent to Owner is approved;

(c) If sixty (60) days or more before the contract anniversary date there is a 5% decrease in the published FMR for the unit size as compared to the previous FMR;

(d) At the election of DCHA;

(e) At the discretion of the US Department of Housing and Urban Development.

8301.3 Reasonable Rent Determination. The reasonable rent determination is undertaken on a case-by-case basis. At any time a rent determination is undertaken in accordance with 8301.2 above, the following process is used for determining whether the gross rent proposed to be charged by the Owner is reasonable.

(a) DCHA when determining reasonable rent always considers items (i) through (ix) and may consider items (x) and (xi) at its option as follows:

- (i) Square Feet
- (ii) Number of Bedrooms
- (iii) Maintenance Services provided by the lease
- (iv) Location
- (v) Unit Type
- (vi) Quality
- (vii) Date Built
- (viii) Amenities included in the lease
- (ix) Utilities if provided by Owner
- (x) Number of Bathrooms
- (xi) Other Services provided under the lease

(b) DCHA maintains an automated database which includes data on comparable unassisted units for use by staff in making rent reasonableness determinations.

(c) DCHA does not establish minimum base rent amounts.

(e) DCHA shall use at least two comparable unassisted units for each rent determination with all comparables based on the rent that the unit would command if leased in the current market within the last twelve (12) months.

(f) The data for other unassisted units may be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

(g) The market areas for rent reasonableness are indicated by census tract, within the District of Columbia and the determination of reasonable rent is made by comparable rents on similar units within the same or nearby census tracts.

8301.4 Owner Information. The Owner is required to provide DCHA with information if requested on rents charged by the owner for other units owned by the Owner either at the same premises or elsewhere in the District of Columbia.

8301.5 Owner Certification. Acceptance of each monthly housing assistance payment is a certification by the Owner that the gross rent to the owner is not more than rent charged by the owner for comparable unassisted units in the premises for multi-unit premises, or in the same market area for single unit premises.

**8302 HOUSING ASSISTANCE PAYMENTS FOR ASSISTED HOUSEHOLDS**

- 8302.1      Applicable Payment Standard. The Payment Standard, except in the case of enhanced vouchers, for each Household is the LOWER of:
- (a) The payment standard for the household unit size and composition as set under Section 8300.2 above; OR
  - (b) The payment standard amount for the size of the dwelling unit rented by the household.
- 8302.2      Amount of Monthly Housing Assistance Payment. DHCA shall pay a Monthly Housing Assistance Payment to the Owner on behalf of a participating Household that is equal to the payment standard for the Household as determined under 8302.1 above, minus the Total Tenant Payment notwithstanding the amount of the gross rent and the household's Family Share as determined under 8303 below.
- 8302.3      Decreases in Payment Standards During the HAP Contract. If the amount of the Payment Standard Schedule for the Unit Size decreases during the term of a HAP contract, DCHA shall determine the Total Tenant Payment and Monthly Housing Assistance Payment for the household as follows:
- (a) At the second annual reexamination of the Household following the effective date of the decrease in the Payment Standard Schedule amount, DCHA shall redetermine the Total Tenant Payment as provided under 8302.1 above, using the lower Payment Standard.
  - (b) DCHA shall determine whether the Monthly Housing Assistance Payment amount using the prior (higher) Payment Standard, or the monthly Housing assistance Payment amount using the decreased Payment Standard provides a lower or higher amount than the prior monthly Housing Assistance Amount (a higher amount being possible due to changes in household or unit size during the preceding examination period as required under 8302.5 below).
  - (c) If the Monthly Housing Assistance Amount is increased before the implementation of the decrease, then the provisions governing increases in Section 8302.4 below shall apply.
- 8302.4      Increases in Payment Standards during the HAP Contract. If the amount on the Payment Standard Schedule for the Unit Size increases during the term of a HAP contract, then:
- (a) The increased Payment Standard shall be used as provided under 8302.1 above, to calculate the Monthly Housing Assistance Payment; and

(b) The increase shall go in to effect as of the first annual reexamination on or after the effective date of the increase in the Payment Standard.

8302.5 Changes in Family Size and Moves. Notwithstanding the provisions in 8302.2 and 8302.3 above,

(a) The Payment Standard in effect at the time there is any increase or decrease in household size during the HAP contract term shall be used to determine the Total Tenant Payment and monthly Housing Assistance Payment for the household beginning at the first annual reexamination following the change in household size;

(b) If a family moves to a new unit, the Payment Standard in effect at the time of the move shall be used to determine the amount of the Total Tenant Payment and the monthly housing assistance payment; and the new lease shall be approved in accordance with 8301.1 above.

### **303 FAMILY SHARE OF RENT**

8303.1 Family Share of Payment. The family share of the gross rent stated in the lease is calculated by subtracting the amount of the monthly housing assistance payment from the gross rent. The family must pay the difference between the maximum housing assistance payment and the rent due to the Owner.

8303.2 Limits on DCHA Payments. DCHA may not use housing assistance payments, or any other program funds, including administrative fee reserves, to pay any part of the family share.

8303.3 Maximum Family Share of Rent. DCHA may only approve a tenancy for a unit if:

(a) For the initial occupancy period (usually one year), if the gross rent, as determined to be reasonable by DCHA, does not result in the maximum Family Share exceeding 40% of the household's adjusted monthly income;

(b) After initial occupancy, there is no limit (other than rent reasonableness determinations) on the gross rent and percent of adjusted monthly income that a participating household may elect to pay as the Family Share.

8303.4 Other Fees and Charges. Leases or separate agreements providing for additional fees and charges are subject to the following requirements:

(a) Additional fees and charges will NOT be approved if:

(i) The cost of meals or supportive services is included in the rent to the Owner, with such costs being included in the calculation of reasonable rent;

(ii) Non-payment of such charges is grounds for termination of the lease;

(iii) Inclusion of any extra fees or charges are for items that are customarily included in rent in the District of Columbia;

(iv) Fees or charges are included for items provided at no additional cost to unsubsidized tenants in the premises.

(b) DCHA is not liable for unpaid charges for any additional items whether set forth in the lease or covered by separate agreements;

(c) If the tenant and owner have come to an agreement on the amount of charges for a specific item that is not prohibited under (a) above, and so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. Costs for seasonal items can be spread out over 12 months.

(d) Copies of all separate agreements must be provided to DCHA.

8303.5 Negotiating Rent. Negotiations over the gross rent to the Owner are conducted between the Owner and the Household. DCHA may assist the Household in the negotiations at the request of the Household.

#### **8304 RENT INCREASES TO OWNER**

8304.1 Written Request Required. Owners may request a rent increase no later than 90 days prior to any family annual reexamination date. The request must be in writing.

8304.2 Amount of Rent Adjustment. Rent to the Owner may be adjusted either up or down. Subject to compliance with 8304.1 above, the adjusted rent to an Owner who has submitted a written request shall be the LESSER of:

(a) The current rent multiplied by the applicable annual adjustment factor published by HUD as in effect 60 days before the HAP anniversary date; OR

(b) The reasonable rent as most recently determined (or redetermined) by DCHA; OR

(c) The amount requested by the Owner.

8304.1 Prerequisites to a Rent Increase. The rent may not be increased on the family annual reexamination date unless:

(a) The Owner has requested a specific increase amount at least 90 days before the family annual reexamination date; AND

(b) The request is made in writing on DCHA provided forms for each unit for which an increase is being requested; and

(c) In the preceding year, the Owner has complied with all requirements of the HAP contract, including compliance with the Housing Quality Standards.

8304.4 Timing of any Increases to Rent. Housing Assistance Payment increases, if approved by DCHA, shall be effective as of the first day of the first month commencing on or after the Participant's annual reexamination (anniversary) date;

Comments on these proposed regulations should be submitted, in writing, to Margaret McFarland, General Counsel, 1133 North Capitol Street, NE, Washington, DC 20002, Suite 210, within fifteen (15) of the date of publication of this notice in the DC Register. Additional copies of these proposed rules are available from the above address.

DISTRICT OF COLUMBIA HOUSING AUTHORITY  
NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority ("DCHA") hereby gives notice of intent to take final rulemaking action to amend Title 14 by adopting an Amended and Restated "Chapter 92: Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP)", in not less than fifteen (15) days from the date of publication of this notice in the D.C. Register. The Board of Commissioners of DCHA finds good cause to publish these proposed regulations for less than thirty days as the rules are amendments to an existing program and are critically important in order to timely facilitate the closing of homeownership purchases by program beneficiaries who are awaiting the final real estate conveyance in order to occupy their new homes.

**CHAPTER 92      HOUSING CHOICE VOUCHER/HOME OWNERSHIP ASSISTANCE PROGRAM (HCV/HOAP)****9200      GENERAL PROGRAM DESCRIPTION**

The Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP) is designed to offer eligible households who are participating in the Housing Choice Voucher Program the opportunity of becoming a home owner. The HOAP provides for DCHA to make a Housing Choice Voucher Payment on behalf of a Participating Household to a Participating Mortgage Lender who has provided a mortgage loan to the Participating Household for the purchase of a home. The program requirements, conditions of HOAP assistance, as well as, other pertinent terms and program elements are all set forth in the Sections herein.

**9201      PURPOSES**

9201.1      The purposes of the HCV/HOAP are to:

- (a)      Provide safe, adequate and affordable housing;
- (b)      De-concentrate areas of geographic poverty;
- (c)      Encourage upward mobility;
- (d)      Foster economic self sufficiency; and
- (e)      Increase home ownership, while minimizing mortgage default risk.

**9202      DEFINITIONS**

9202.1      "Cooperative" - A cooperative is defined as housing owned by a nonprofit corporation or association and where a member of the corporation or association has the right to reside in a particular apartment and to participate in the management of



the housing.

- 9202.2 "Cooperative Member" - A Cooperative member is defined as a family in which one or more members own membership shares in a cooperative.
- 9202.3 "DCHA" means District of Columbia Housing Authority or any successor agency, thereto.
- 9202.4 "Disabled Household" - means a household whose head, spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
- 9202.5 "Elderly Person" - One who is at least 62 years of age.
- 9202.6 "Eligible Household" - an Eligible Household is a household of one or more persons that meets the minimum eligibility requirements set forth in Section 9203.
- 9202.7 "Elderly Household or Family" - A household whose head or spouse or whose sole member is at least 62 years of age or a disabled person as defined in this Section. A Household may include two or more elderly or disabled persons living together or one or more such persons living with another person who is determined to be essential to his or her care and well being.
- 9202.8 "Family Self-Sufficiency Program" - Family Self-Sufficiency program or FSS program means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by Section 23 of the 1937 Act.
- 9202.9 "Full-time Basis" means at least 30 hours per week.
- 9202.10 "HCV/HOAP" means the Housing Choice Voucher/Home Ownership Assistance Program operated by the District of Columbia Housing Authority. Within this document "HCV/HOAP" and "HOAP" are used interchangeably.
- 9202.11 "HOAP Subsidy" or "HCV/HOAP Assistance" means the home ownership subsidy assistance for payment to a mortgage lender on behalf of a Participating Household as provided through the Housing Choice Voucher program in the amount as determined under Subsection 9212.2.
- 9202.12 "HOAP Applicant Household" - An Eligible Household that has been issued a Certificate of Completion and is in the process of obtaining a Preliminary Certificate of Assistance; Mortgage Pre-approval; Home Search Authorization; Final Certificate of Assistance.

- 9202.13 "HOAP Participating Household " - A HOAP Applicant Household who has completed all the steps necessary to the purchase of a home and closed on their mortgage loan.
- 9202.14 "Housing Choice Voucher Program" or HCVP or HCV program means the rental assistance program established by Section 8 of the 1937 Housing Act in its entirety, unless otherwise specified.
- 9202.15 "Income Eligible Household" - A Household that meets the eligibility requirements set forth in Subsection 9203.2(c).
- 9202.16 "Lease-Purchase Agreement" - A lease-purchase agreement is a lease agreement with an option to purchase a property entered into between a property owner and a tenant with the objective of the tenant having a right to exercise the right to purchase the leased property within a specified period time.
- 9202.17 "Membership Share" - Membership share is defined as ownership of a share of a cooperative that gives the shareowner the right to reside in a particular unit in the cooperative and the right to participate in management of the housing.
- 9202.18 "Participating Lender" - A lender who has agreed to participate in the HCV/HOAP and provide loans to borrowers under the terms and conditions of this program. Additionally, participating lenders agree to make loans to Participating HOAP Families which comply with the regulations herein, and are characterized by reasonable interest rates and repayment terms.
- 9202.19 "Payment Standard" - The maximum monthly assistance payment for a Household as determined in accordance with Chapter 83 of this Title 14.
- 9202.20 "Total Tenant Payment" - The amount toward a mortgage payable by a tenant which shall be determined in accordance with Chapter 83 of this Title 14.

**9203 ELIGIBILITY REQUIREMENTS**

- 9203.1 As a threshold determination for participation in the HCV/HOAP, a Household either shall already be a participant under lease in the Housing Choice Voucher Program or be eligible for home ownership under any other DCHA program
- 9203.2 A household that meets the threshold determination shall then meet the following eligibility requirements:
- (a) First Time Homeowner. The household may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement of the HOAP Subsidy, except as follows:

- (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option.
  - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three year period;
  - (3) A household in which a household member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
  - (4) A household that owns or is acquiring shares in a cooperative.
- (b) Employment. Except as provided in 9203.4 and 9203.5, the household shall provide proof of employment such that:
- (1) One or more of the adult household members who shall be a borrower or co-borrower at the commencement of receiving HOAP assistance, is currently employed on a Full-time Basis; and
  - (2) At least one borrower shall have been employed for at least two (2) continuous years preceding the beginning of HOAP Subsidy.
- (c) Minimum Income.
- (1) The household shall demonstrate that gross annual income of the borrower or co-borrowers is either:
    - (i) Equal to at least 2,000 full-time work hours at the Federal Minimum Wage (FMW); or
    - (ii) For Disabled Households, equal to the monthly federal Supplemental Security Income Program benefit for an individual living alone multiplied by 12.
  - (2) Except in the case of Elderly or Disabled Households,, income shall come from a source other than the governmental assistance program Tenant Assistance for Needy Families.
- (d) Family Self Sufficiency. Applicants for the HCV/HOAP shall be enrolled in a self sufficiency program recognized by DCHA, unless the applicant an Elderly or Disabled Household..
- (e) Good Standing. The household shall be in Good Standing as follows:
- (1) The household shall have disclosed all prior debts to DCHA or any other public housing agency and have repaid all such debt at least a

























































