



CITY OF PASSAIC, NEW JERSEY

**FIRST TIME HOMEBUYER PROGRAM
POLICY MANUAL**

*First Time Homebuyer
Owner-Occupied
One to Four-Family Housing Acquisition Program*

DEPARTMENT OF COMMUNITY DEVELOPMENT

(INCLUDES 2019 UNCAPPED LOW-INCOME LIMITS)

Revised: July 31, 2019

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I. PROGRAM POLICY STATEMENT

SUMMARY STATEMENT

The City of Passaic has established the First Time Homebuyer Program as a housing acquisition program designed to assist **low-income** City of Passaic tenants in becoming homeowners. The program is consistent with the purposes of the National Affordable Housing Act and is governed by all applicable laws, ordinances, regulations and codes of the federal, state and local governments.

The First Time Homebuyer Program will provide financial assistance to **eligible** City of Passaic tenants to purchase an affordable home in the form of a deferred payment second mortgage loan in an amount not to exceed 10 % of the purchase price of the home, up to a maximum of **\$39,500** for down payment and closing costs.

All eligible applicants must be City of Passaic residents at the time of application and all properties purchased through the First Time Homebuyer Program must be located in the City of Passaic. Household income criteria established by the HOME Program and applicable regulations must also be met.

Only residential properties can be purchased through the First Time Homebuyer Program. Residential properties with mixed commercial uses will not be permitted funding.

Applicants must comply with the City's application process and provide required personal and financial information and agree to use any HOME funds in accordance with established City procedures.

All funding for the First Time Homebuyer Program will come from the HOME Investment Partnerships Program through the U.S. Department of Housing and Urban Development.

The program will provide subsidy to homeowner-occupied units only. If a property is a multi-family dwelling, assistance will only be provided to the homeowner-occupied unit.

II. ELIGIBILITY QUALIFICATIONS

In order to qualify for the City of Passaic’s First Time Homebuyer Program an applicant must meet the following key eligibility criteria:

A. PREVIOUS OWNERSHIP

The applicant or applicants must be:

- i. An individual that has never owned a home.
EXCEPT: If an applicant has previously owned a home he or she still may qualify if he or she meets one or more of the following criteria:
 - An individual who is a displaced homemaker¹ even if as a homemaker the individual owned a home with his or her spouse or resided in a home owned by the spouse.
 - An individual who is a single parent ² even if the individual owned a home with his or her spouse or resided in a home owned by the spouse.

B. INCOME

The prospective homebuyer’s household must have an annual income equal or less than 80 percent of the median income of the area. Below is HUD’s Maximum Annual Income Limits.

INCOME ELIGIBILITY	UNCAPPED LOW INCOME LIMITS – 2019			
	Household Size	Income Limit	Household Size	Income Limit
	1	\$59,750	5	\$92,150
	2	\$68,250	6	\$98,950
	3	\$76,800	7	\$105,800
	4	\$85,300	8	\$112,600

¹ Federal HOME Program regulations define a “displaced homemaker” as an individual who has not worked full-time for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; **and** is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

² Federal regulations define a “single parent” as an individual who is unmarried or legally separated from a spouse; **and** has one or more minor children for whom the individual has custody or joint custody **or** is pregnant (at the time the applicant occupies the purchased house.)

Income shall be defined as gross income from all sources received by the head of household, spouse and other household members, as set forth under 24 CFR 5.609 (Part 5 definition of annual income – see Attachment A).

The HOME First-Time Homebuyers' Program does not require that the First-Time Homebuyer remain low-income after meeting the initial test;

Household size shall include year-round occupants; members temporarily away, such as students away at school, children placed in foster care, Armed Forces personnel on temporary duty assignment, etc. The following shall **not** count towards your household size: live-in aides, attendants or nurses; absent children under 18.

Any household that has more than \$10,000 in liquid assets (checking accounts, savings accounts, Certificates of Deposits or other assets that are readily accessible) will be required to put all liquid assets over \$10,000 toward the down payment and closing costs prior to receiving funds through the First-Time Homebuyer Program. Households that have in excess of \$40,000 in liquid assets are ineligible to participate in the First-Time Homebuyer Program. Applicants that are provided a "Gift" to be used towards the purchase of the home understand that these funds will be deemed liquid assets. A "Gift" exceeding \$40,000 will disqualify the applicant from participating in the First-Time Homebuyer Program. Applicants are expected to contribute at least three (3) percent of the purchase price from their own funds toward the purchase price.

C. RESIDENCY REQUIREMENTS

All eligible applicants must be City of Passaic residents for one year at the time of qualification, and all properties purchased through the First Time Homebuyer Program must be located in the City of Passaic.

Applicants must submit proof of City of Passaic residency with their application. One of the following three sets of documents will be accepted as proof of residency:

- 1) New Jersey Driver's License and one major utility bill issued in the last 90 days.
- 2) Original lease or rental agreement showing the applicant's name as the lessee or renter and one major utility bill issued in the last 90 days.
- 3) High school or college report card or transcript containing the applicant's address issued in the past 6 months.

Major Utility bills are considered to be: electric, gas/oil, land line telephone or paid TV service. These bills must be in the name of applicant or co-applicant.

Applicant must be a legal U.S. resident and will be required to provide documentation and sign an affidavit.

Note: Mail addressed to P.O. Boxes is not accepted as proof of address.

D. PROPERTY QUALIFICATION

Applicants may only request funds for what will be their **principal residence**. *After purchase, the house **must** serve as the “first-time homebuyers” principal, year-round residence. A mortgage or deed restriction will be used to ensure that the “first-time homebuyer” retains the property as a “principal residence.”*

Assistance shall be provided only to housing units that meet established Section 8 Housing Quality Standards (HQS) as set forth in Section VII of this Policy Manual. A First Time Homebuyer Program inspector will determine property qualification through property inspection. If property doesn't meet HQS then it will not qualify for the program. The only exception to this would be if homebuyer qualifies for a special type loan that provides the new homeowner with additional funding to rehabilitate the property. Under these circumstances, the property must be free of all safety defects within six (6) months of closing and owners would not be able to live in the property until all safety defects have been rectified.

All Housing Quality standards need to be addressed within two years and the City will inspect when notified of the completion. Should the unit not be completed, the City will require the homeowner to repay the HOME funds.

All homes built prior to January 1, 1978 are subject to a visual assessment for lead-based paint. If lead-based paint is believed to have been found on either the interior or exterior of the property (any cracking, scaling, chipping, peeling, or loose paint) will disqualify the property. Where defective paint is found, it must be treated to eliminate immediate hazards. At a minimum, treatment is removal of the defective paint and repainting of the surface.

Newly constructed housing must comply with the current edition of the International Energy Efficiency Code (IEEC).

A first-time homebuyer can only purchase a 1-4 family property or condominium unit. If a first-time homebuyer purchases a 2-4 unit property, and the other unit(s) are also HOME assisted, he/she must rent to qualified tenants in accordance with HOME Program regulations. Also, the appraised value of the units shall not exceed the following mortgage limits³:

	Existing homes	New Homes
1-family and condominium –	\$353,000	\$353,000
2-family -	\$452,000	\$452,000
3-family -	\$548,000	\$548,000
4-family -	\$679,000	\$679,000

The property purchased must be used as the first-time homebuyer's principal residence.

³ HUD's published HOME Homeownership Sales Price Limits - FY 2015 for the area.

RELOCATION

Seller of property must be notified in writing, that the prospective homebuyer does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement. The seller must also be informed, in writing, of the estimate of the fair market value of the property.

If the property being considered by the prospective homebuyer is tenant-occupied, the tenant must be provided relocation assistance. That assistance includes advisory services, certain notices, moving expenses, and replacement housing assistance. Replacement housing assistance consists of either rental assistance or down payment assistance if the tenant wishes to become a homeowner. (24 CFR [92.353](#), 49 CFR 24.101)

III. UNIT AFFORDABILITY

Financial assistance provided through the City of Passaic HOME First-Time Homebuyers Program shall be a deferred loan, secured by a second mortgage: The term will be for **10 years** for all existing and newly constructed properties. If title to the property is sold, transferred or conveyed, the loan will be due and payable at the time of the sale. A property may be refinanced only under the following conditions:

- The owner must maintain a loan to value ratio of 80 percent. The ratio will be calculated based on **ALL** open mortgages as of the date of the request.
- Refinancing terms will not result in cash out to the owner in excess of \$5,000.
- Refinancing terms will result in homeowner obtaining a rate better than the current rate or better than the national average interest rate.

Repayment of the loan shall be due in the event of noncompliance with the terms of the Program as spelled out in the mortgage. *This lien will record the purchaser's commitment to use the house as their principal residence for the term of the mortgage.*

The terms of the secondary mortgage loan shall be reviewed and approved by the City prior to closing.

If the property is sold or refinanced prior to the end of the Affordability period (**10 years** for existing property and new construction), the first time homebuyer **must** pay back all of loan unless the refinancing meets all of the conditions listed on this subtitle: Unit Affordability

IV. PROGRAM PROCEDURES

All prospective applicants for the First-Time Homebuyers Program **MUST** find a property and sign a contract to purchase the property prior to applying for down-payment assistance.

All prospective applicants must complete the “Application for Down-payment Assistance” and return application to a **participating** lender. The lending institution will then forward all documents outlined on the “Document Checklist” to the First-Time Homebuyers Program.

Once all documents are received by the First-Time Homebuyers Program, the review process will begin. Prior ownership, income, residency and property qualifications will be the factors used to determine eligibility. If an applicant is applying for down-payment assistance while still married, but separated from his or her spouse, the individual **NOT** purchasing home will be required to sign a Quit Claim Deed to ensure he or she will not attempt to assert any claim or interest in the new property.

City official(s) will attend all closings.

V. ANNUAL RESIDENCY REVIEW

The Department of Community Development may contact the homebuyer once a year to request proof of continued residency in the assisted unit. The buyer must submit proof within 30-days or the DCD may require repayment of the loan. Acceptable forms of proof would be three (3) items from the following list:

- New Jersey Driver’s License (photo identification) or government issued ID;
- Elementary School, High School or College report card or transcript containing your address, issued within the past six months;
- Property tax bill, statement or receipt for the current year;
- Checking or saving account statement from a bank or credit union, issued in the past 60 days;
- Utility or credit card bill issued in the past 60 days that shows your name at your current address or,
- Any letter or correspondence (including tax bills) from the IRS or state tax office in the last year.

VI. PROGRAM PRIORITY CRITERIA

The City anticipates it may receive requests for First Time Homebuyer Program assistance which will exceed its immediate administrative capacity and/or available funds for the program. Therefore, to provide for equitable distribution of funds, the following prioritization procedures shall apply:

- City will provide HOME assistance to homebuyers on a first-come, first-served basis enforced by a waiting list maintained by the Community Development Department.
- In the case the waiting list is exhausted, the City will advertise for the Program using the two local newspapers (North Jersey Herald News & El Especial), its website and local non-profit agencies to create a new waiting list.
- Interested parties must visit the Community Development Department with proof of residency to add their names to the waiting list.
- Names will be added to the waiting list in the order they are received by the Community Development Department.
- If an applicant in a lower position on the waiting list establishes program eligibility and meets all program requirements prior to an applicant at a higher position on the waiting list, the applicant at the lower position will be assisted first. This does not imply, however, that any applicants will be skipped on the waiting list.

VII. TRUTH IN LENDING ACT POLICY

- At the time of closing, First Time Home Buyer applicants will be given *Form 8*, “**NOTICE OF RIGHT OF RESCISSION**”, that can be returned to the City of Passaic / Department of Community Development as written notice to cancel the transaction.
- At the time of closing, First Time Home Buyer applicants will also be given two (2) copies of *Form 9*, “**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF RIGHT OF RESCISSION**”, that will acknowledge the receipt of such notice. Each of the two copies of *Form 9* must be signed by each applicant. One copy of *Form 9* is to be returned to the applicants for their records. The other copy of *Form 9* is to be maintained at the applicants’ file at the Department of Community Development.
- For refinanced properties, under the Truth in Lending Act, applicants will be given three (3) business days to rescind on the transaction that will result in a lien, mortgage, or other security interest in the applicant’s home.

DEFINITION OF INCOME

Definitions used in implementing this program, including income, shall be as set forth under 24 CFR 5.609 (Part 5 Annual Income Definition).

Part 5 Definition: The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. At its most basic level, the Part 5 definition of annual income is made up of the types of household income that are:

- included in the definition (“inclusions”), and
- excluded from the definition (“exclusions”)

Part 5 Inclusions

This table presents the Part 5 income inclusions as stated in the Code of Federal Regulations.

General Category	Statement from 24 CFR 5.609 paragraph (b) (April 1, 2004)
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest & Dividend Income	Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in number 14 of Income Exclusions).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance	<p>Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income:</p> <ul style="list-style-type: none"> ▶ Qualify as assistance under the TANF program definition at 45 CFR 260.31; and ▶ Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c). <p>If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:</p> <ul style="list-style-type: none"> ▶ the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus ▶ the maximum amount that the welfare assistance agency could in fact allow the family for shelter and

	utilities. If the family's welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.
7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 7 of Income Exclusions).

Part 5 exclusions

This table presents the Part 5 income exclusions as stated in the Code of Federal Regulations.

General Category	Statement from 24 CFR 5.609 paragraph (c) (April 1, 2004)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in Aides	Income of a live-in aide (as defined in 24 CFR 5.403).
6. Disabled Persons	Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. Armed Forces Hostile Fire Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ul style="list-style-type: none"> a. Amounts received under training programs funded by HUD. b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS). c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program. d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time. e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparations	Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
12. Income from Full-time Students	Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse).
13. Adoption	Adoption assistance payments in excess of \$480 per adopted child.

Assistance Payments	
14. Social Security & SSI Income	Deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
17. Other Federal Exclusions	<p>Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including:</p> <ul style="list-style-type: none"> ▶ The value of the allotment made under the Food Stamp Act of 1977; ▶ Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions); ▶ Payments received under the Alaskan Native Claims Settlement Act; ▶ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians; ▶ Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes; ▶ Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; ▶ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721); ▶ The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands; ▶ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work study program or under the Bureau of Indian Affairs student assistance programs; ▶ Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program); ▶ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.); ▶ Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments; ▶ The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990; ▶ Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs and career intern programs, AmeriCorps); ▶ Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation; ▶ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990; ▶ Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from Spina bifida who is the child of a Vietnam veteran; ▶ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act; and ▶ Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

A list of the Part 5 income "inclusions" and "exclusions" is published in the Code of Federal Regulations at 24 CFR 5.609. This list is periodically updated by HUD when changes are made to the Part 5 definition of annual income by the United States Congress. Please visit the following link to review current definition:
<http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/definitions/part5.cfm#whose>

HOUSING QUALITY STANDARDS (HQS)
24 CFR § 982.401

Source: 60 FR 34695, July 3, 1995, unless otherwise noted.

(a) Performance and acceptability requirements

(1) This section states the housing quality standards (HQS) for housing assisted in the programs.

(2)(i) The HQS consist of:

(A) Performance requirements; and

(B) Acceptability criteria or HUD approved variations in the acceptability criteria.

(ii) This section states performance and acceptability criteria for these key aspects of housing quality:

(A) Sanitary facilities;

(B) Food preparation and refuse disposal;

(C) Space and security;

(D) Thermal environment;

(E) Illumination and electricity;

(F) Structure and materials;

(G) Interior air quality;

(H) Water supply;

(I) Lead-based paint;

(J) Access;

(K) Site and neighborhood;

(L) Sanitary condition; and

(M) Smoke detectors.

(3) All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

(4)(i) In addition to meeting HQS performance requirements, the housing must meet the acceptability criteria stated in this section, unless variations are approved by HUD.

(ii) HUD may approve acceptability criteria variations for the following purposes:

(A) Variations which apply standards in local housing codes or other codes adopted by the PHA; or

(B) Variations because of local climatic or geographic conditions.

(iii) Acceptability criteria variations may only be approved by HUD pursuant to paragraph (a) (4)(ii) of this section if such variations either:

(A) Meet or exceed the performance requirements; or

(B) Significantly expand affordable housing opportunities for families assisted under the program.

(iv) HUD will not approve any acceptability criteria variation if HUD believes that such variation is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

(b) Sanitary facilities

(1) Performance requirements.

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

(2) Acceptability criteria.

(i) The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.

(ii) The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

(iii) The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.

(iv) The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

(c) Food preparation and refuse disposal

(1) Performance requirement.

(i) The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

(ii) There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(2) Acceptability criteria.

(i) The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

(ii) The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

(iii) The dwelling unit must have space for the storage, preparation, and serving of food.

(iv) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

(d) Space and security

(1) Performance requirement. The dwelling unit must provide adequate space and security for the family.

(2) Acceptability criteria.

(i) At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.

(ii) The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

(iii) Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

(iv) The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

(e) Thermal environment

(1) Performance requirement. The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

(2) Acceptability criteria.

(i) There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.

(ii) The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

(f) Illumination and electricity

(1) Performance requirement. Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

(2) Acceptability criteria.

(i) There must be at least one window in the living room and in each sleeping room.

(ii) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.

(iii) The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

(g) Structure and materials

(1) Performance requirement. The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

(2) Acceptability criteria.

(i) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

(ii) The roof must be structurally sound and weather tight.

(iii) The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.

(iv) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

(v) Elevators must be working and safe.

(h) Interior air quality

(1) Performance requirement. The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

(2) Acceptability criteria.

(i) The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

(ii) There must be adequate air circulation in the dwelling unit.

(iii) Bathroom areas must have one operable window or other adequate exhaust ventilation.

(iv) Any room used for sleeping must have at least one window. If the window is designed to be operable, the window must work.

(i) Water supply

(1) Performance requirement. The water supply must be free from contamination.

(2) Acceptability criteria. The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

(j) Lead-based paint performance requirement

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

(k) Access performance requirement

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

(l) Site and Neighborhood

(1) Performance requirement. The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

(2) Acceptability criteria. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(m) Sanitary condition

- (1) Performance requirement. The dwelling unit and its equipment must be in sanitary condition.
- (2) Acceptability criteria. The dwelling unit and its equipment must be free of vermin and rodent infestation.

(n) Smoke detectors performance requirement

- (1) Except as provided in paragraph (n) (2) of this section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, - smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).
- (2) For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

[60 FR 34695, July 3, 1995, as amended at 61 FR 27163, May 30, 1996; 63 FR 23861, Apr. 30, 1998; 64 FR 26646, May 14, 1999; 64 FR 49658, Sept. 14, 1999; 64 FR 50230, Sept. 15, 1999]