

CITY OF CLARKSVILLE

**NO PLACE LIKE HOME
DOWN PAYMENT
ASSISTANCE PROGRAM**

Introduction

This Manual sets forth policies and procedures for the City of Clarksville's First Time Homebuyer (FTH) Program, "No Place Like Home." With Community Development Block Grant and HOME Investment Partnership funding supplied through U.S. Department of Housing and Urban Development the FTH Program is administered by the Office of Housing and Community Development and is designed to provide home ownership opportunities to low income buyers within the City of Clarksville. In the event that these policies and procedures are revised or new ones implemented, this manual shall be revised accordingly.

FTH Program Mailing Address:
City of Clarksville
Office of Housing and Community Development
One Public Square, Suite 201
Clarksville, TN 37040
Telephone: 931-648-6133
Fax: 931-503-3092

Program Policies and Procedures
Office of Housing and Community Development
Down Payment Assistance Program

A. Purpose of Manual

The purpose of this Manual is to describe the First Time Homebuyer (FTH) Program/Down Payment Assistance and set forth the roles of the participating the City of Clarksville.

This Manual contains the regulations pertaining to specific funding sources and the Program's general requirements and processing procedures. The intent of the FTH Program is to be able to provide secondary mortgage financing to close the gap between eligible Borrowers' financial resources and the cost of housing in Clarksville.

B. Program Summary

The City of Clarksville has established the FTH Program to assist low income first time homebuyers with the purchase of a home. The Program is administered by the Office of Housing and Community Development.

To maximize the effectiveness of the FTH Program as a vehicle for enhancing affordability, Borrowers pay no current principal or interest on the second mortgage for as long as they own their home. A mortgage in which payment is deferred is also known as a "silent second" mortgage. There is no interest calculated on the amount borrowed. Loan principal is due and payable upon a variety of conditions or circumstances, the most common one being the sale or transfer of the home.

The City of Clarksville lends an eligible Borrower \$ 5,000 for down-payment assistance and up to 5% of the purchase price for closing costs and up to 1.5% of the purchase price in pre-pays. If the borrower fails to live in the residence for five-years and one month they are required to repay the original \$ 5,000 down-payment assistance in full. If borrower lives in the home for longer than five-years and one month, the down-payment assistance provided is forgiven in its entirety.

The closing costs/pre-paid assistance will be due on sale or transfer. There is no interest that accrues on this balance.

C. General Definitions

As used in this Manual and all program documents, unless the context requires otherwise, the following words and terms have the meanings set forth below:
ACQUISITION COST: The Acquisition Cost is used interchangeably with Purchase Price. See Purchase Price definition for additional information.

AFFORDABLE: In reference to housing costs, means that the financial obligation can be paid by the person or household, along with all other financial responsibilities of that person or household, without endangering the financial stability of the household.

AFFORDABILITY PERIOD: The minimum period of time properties are required to be occupied by a Borrower as his/her principal place of residence under the regulations pertaining to the funding source(s) used.

APPLICANT: Any person who applies for a FTH loan under the Program.

ASSISTED UNIT A unit purchased with a loan funded under this Program.

BORROWER: A First Time Homebuyer who has or will receive secondary financing under this Program for the purchase of an eligible property.

CERTIFICATION A written statement of fact filed in connection with this Program and subject to penalties of perjury.

CITY: The City of Clarksville, Tennessee.

DATE OF ISSUE: The date the FTH Commitment is signed and executed by the Office of Housing and Community Development.

DEPARTMENT: The City of Clarksville Office of Housing and Community Development.

SUBSIDY:

1. HOME funds invested in a property that indirectly benefit a homeowner and are not subject to recapture.
2. The difference between the total development cost and the market value of the property.

ELIGIBLE HOUSEHOLD: A household that is a first time homebuyer and who meets applicable criteria specific to the funding source used.

ELIGIBLE PROPERTY: Real property located in the incorporated city limits of the City of Clarksville which also meets additional criteria relative to the specific funding sources utilized.

FIRST MORTGAGE: 1. A mortgage which is in first lien position, taking priority over all other liens. 2. An extension of credit for which a Deed of Trust is recorded and the proceeds of which are used to finance the purchase of an eligible property which meets the requirements set forth in this Manual.

FIRST TIME HOMEBUYER: A purchaser of an owner-occupied unit who neither has, nor has had, a present ownership in a principal residence at any time during the three-year period prior to the date on which a mortgage pursuant to this Program is executed.

GROSS INCOME: The anticipated income of a person or family for the 12 month period following the date of determination of income.

FTH SECOND MORTGAGE: An extension of credit for which a Deed of Trust is recorded and is subordinate to the First Deed of Trust and possibly other sources of funding. A deferred payment is due in full in accordance with the regulations pertaining program guidelines.

FIRST TIME HOME BUYER APPROVAL: An approval letter is issued by the Program Director on behalf of the City of Clarksville pursuant to the rules and regulations included in this Manual.

HUD: The United States Department of Housing and Urban Development.

HOMEOWNERSHIP DEVELOPMENT PROJECT: New construction on a site, including subdivisions, or scattered sites, that is under common ownership, development financing and construction.

INCOME: To determine a Borrower's eligibility for program assistance, income is determined using definitions specific to the particular funding source(s) utilized.

LENDER: 1. A bank or trust company, mortgage banker, mortgage broker, federal or state chartered savings and loan association, state or federal governmental agency or credit union whose principal business is to originate, process, close and service loans for the purchase of property. 2. Nationwide institutions whose primary purpose is to develop housing and provide first mortgage financing to low-income purchasers of the developed housing. 3. The provider of primary mortgage financing for the purchase of an eligible property assisted with secondary financing under this Program.

LOWER INCOME HOUSEHOLD: Persons and families whose incomes do not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. Such limits are defined as 80% of the area median income as adjusted for household size and revised annually.

MANUFACTURED HOUSING UNIT: A home manufactured offsite and transported to a lot. A manufactured Housing Unit must be on a permanent foundation on property owned by the occupant and must be an approved HUD unit.

MATURITY DATE: The date upon which a mortgage loan comes due and payable in full in accordance with the regulations pertaining to the funding source(s) used.

MORTGAGE: A deed of trust used to secure a lien on real property or, in the case of some manufactured housing, another security interest acceptable to the Department.

MORTGAGE ASSISTANCE: Permanent financing used towards homebuyer costs, up to the maximum limit stated in the regulations pertaining to the funding source(s) used.

NEW HOME: A dwelling unit that is proposed to be constructed, currently under construction, or existing but not previously occupied.

NEW MORTGAGE LOAN: A new first mortgage originated in conjunction with a second mortgage under this Program; a mortgage that has not been transferred or assumed.

OWNERSHIP INTEREST: Any of the following interests in residential real property:

- Fee simple estate with right of survivorship
- Joint tenancy
- Tenancy in common

Ownership does not include a remainder interest, a lease with or without an option to purchase or any interest acquired on the execution of the purchase contract.

PRINCIPAL RESIDENCE: A property occupied by the Borrower continuously all year.

RECAPTURE: For HOME purposes, the option selected by City for recovering funds provided to a Borrower under this Program should the Borrower fail to occupy the property as Borrower's principal place of residence for the duration of the affordability period.

RELATED PERSON: As defined under the Internal Revenue Code and applicable regulations: siblings, spouses, ancestors and lineal descendants or any other related persons.

REMAINING SPOUSE/ PARTNER: A now single individual who, while married or during cohabitancy, owned a home with his or her spouse/partner or resided in a home owned by the spouse/partner and has no ownership interest in a residence other than that provided by this program.

SECOND MORTGAGE: A mortgage that is junior or subordinate to a first mortgage.

OWNER-OCCUPIED RESIDENCE: A housing unit intended and used for occupancy by one household which is the owner of the property.

SILENT SECOND: A second mortgage in which there are no payments required of either principal or interest on the mortgage until such payments are required in accordance with the regulations pertaining to the funding source(s) used.

TARGET AREAS: Specific neighborhoods designated by the City.

HOME Program Requirements

A. Overview

The federal Home Investment Partnerships (HOME) Program is the funding Source used by the City of Clarksville to provide assistance to eligible FTH Borrowers. The following applies to HOME loans made under this Program.

B. Eligible Uses of Funds

HOME funds may be used only for the provision of permanent secondary mortgage assistance to first time homebuyers in connection with a new primary mortgage loan for the purchase of a principal place of residence.

C. Ineligible Uses of Funds

1. HOME funds may not be used for:

- a. Recurring loan costs.
- b. Payoff of all or any portion of a Borrower's consumer debt, liens or judgments.

D. Eligible Household

1. To be eligible to receive HOME funds, an individual household shall:

- o Be a very-low or lower income household (income equal to or less than 80% of area median income as adjusted for household size) when considering the annual income of all household residents 18 years old or older. Annual income is as defined in the Code of Federal Regulations, Title 24 Part 5 and is: "The anticipated income of a person or family for the 12 month period following the date of determination of income."
- o Lender shall determine annual gross income in accordance with 24 CFR 5.609(b) attached hereto as Exhibit "A".

2) Income from assets is recognized as part of annual income under 24 CFR Part

5. Lender shall determine income from assets in accordance with 24 CFR 5 attached hereto as Exhibit "B".

- o Include as Borrowers all persons who will be or are on title to the property.
- o Be a first time homebuyer and occupy the property as a principal place of residence. The first time homebuyer requirement may be waived for Borrowers who have owned a home within the last three years, but currently do not own a home if they are purchasing a property located within one of the four Neighborhood Target Areas: New Providence, Red River, Brandon Hills and South Clarksville.

2. The following individual or individuals **may not** be excluded from consideration as a first time homebuyer under this section:

- o A single parent or remaining spouse/partner who, while married or during cohabitancy, owned a home with his or her spouse or resided in a home owned by the spouse/partner, and has no ownership interest in a residence

other than provided for in this Program. A single parent is 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.

E. Eligible Property

1. Property purchased with HOME funds must be located in:
 - o The Clarksville city limits.
2. Property type must be:
 - o Single-family housing (1-4 unit family residence); or
 - o Condominium unit; or
 - o Manufactured home and lot (must be on a permanent foundation).
3. Eligible property must have the following occupancy characteristics:
 - o Currently occupied by the owner-seller of the property; or
 - o If a rental property, sold only to the existing tenant; or
 - o Vacant for six months prior to submission of purchase offer by Borrower.

F. Property Standards

1. Housing purchased with HOME funds under this program must pass a Housing Quality Standards inspection prior to close of escrow. The responsibility for correcting any deficient items noted shall be the sole responsibility of the buyer and/or seller or Borrower may choose to participate in the Purchase Rehab Program.

G. Lead-Based Paint

1. All housing units built prior to 1978 and utilizing HOME funds under this Program are subject to the following requirements:
 - o Notification (*24 CFR 35.1010(b) and 24 CFR 35.130*)
 - 1) Borrower must receive a copy of the Department of Housing and Urban Development/Environmental Protection Agency/Consumer Product Safety Commission lead hazard information brochure entitled "Protect Your Family from Lead in Your Home". Verification of Borrower's receipt of brochure must be placed in project file.
 - o Disclosure (*24 CFR 35.82*)
 - 1) Seller must disclose all known information about the presence of lead-based paint (LBP) or LBP hazards. A copy of the disclosure attached hereto as LBP-1 must be placed in the project file.
 - 2) Seller must allow Borrower 10 days to inspect the property for LBP or LBP hazards.
 - 3) The above disclosure requirements apply to all real estate sales, whether or not assisted with HOME funds.
 - o Visual Assessment (*24 CFR 35.1015(a)*)
 - 1) A visual assessment of all interior painted surfaces painted surfaces, including common areas such as hallways, laundry rooms, or garages, and all exterior surfaces of the building must be conducted to identify deteriorated paint.

- 2) The visual assessment must be conducted by a person who has successfully completed the HUD Office of Lead Hazard Control Visual Assessment Course, and may be included as part of the Housing Quality Standards inspection required of all properties assisted with HOME funds.
- Paint Stabilization (*24 CFR 35.1015(b) and 24 CFR 35.1330(a)(b)*)
 - 1) All deteriorated paint surfaces identified through the visual assessment must be stabilized prior to close of escrow.
 - 2) Testing of deteriorated paint surfaces for the presence of lead may be done at the designated party's (Seller or Borrower) option. A Notice of Lead Hazard Evaluation attached hereto as LBP-2 must be provided to the Borrower and a copy placed in the project file within 15 days of completion of the evaluation activities.
 - 3) The designated party shall perform paint stabilization using safe work practices as defined at 24 CFR 35.1345 and attached hereto as LBP-3.
 - i. Workers performing paint stabilization must be trained in accordance with OSHA regulations at 29 CFR 1926.59 and must also meet additional requirements as set forth at 24 CFR 35.1330(a)(4) attached hereto as LBP-3.
 - ii. If testing of the deteriorated paint surfaces was performed, and no lead based paint found, safe work practices shall not apply.
 - iii. Safe work practices are not required if the total amount of deteriorated paintsurfaces identified does not exceed 20 sq.ft. on exterior surfaces, 2 sq.ft. in any one interior room, or 10% of the total surface area on an interior or exterior type of component with a small surface area like window sills, baseboards and trim.
 - 4) The designated party shall receive a Notice of Required Safe Work Practices attached hereto as LBP-3, together with the results of the visual assessment, prior to conducting paint stabilization.
 - 5) The designated party shall verify compliance with safe work practices upon completion of paint stabilization activities by submission to the Program Administrator of the Certification of Compliance with Safe Work Practices attached hereto as LBP-4. The certification shall be placed in the project file.
 - Clearance (*24 CFR 35.1015(b)(d)*)
 - 1) A State of Tennessee Department of Health Services certified Risk Assessor,
 - 2) Lead-Based Paint Inspector or a Clearance Technician must conduct a clearance exam upon completion of paint stabilization and clean-up activities.

- i. Clearance is not required if the total amount of deteriorated paint surfaces identified and treated does not exceed 20 sq.ft. on exterior surfaces, 2 sq.ft. in any one interior room, or 10% of the total surface area on an interior or exterior type of component with a small surface area like window sills, baseboards and trim.
- o The clearance exam shall consist of a visual assessment and dust testing to determine if the unit is safe for occupancy.
 - 1) If the test results equal or exceed the published clearance standards at 24 CFR 35.1320(b)(2), the unit will not be considered to have passed the clearance exam, and must be recleaned and retested prior to close of escrow.
 - 2) The clearance examiner must be independent from the individual or entity which conducts the paint stabilization activities.
 - 3) Prior to close of escrow, and within 15 days of paint stabilization activities, the Borrower must receive a clearance report which details the results of a clearance examination as prepared in accordance with 24 CFR 35.1340. A copy of the clearance report shall be placed in the project file.

H. Maximum Sales Price/Value Limit

1. The maximum sales price/value limit for a home purchased with the assistance of a HOME loan under this Program shall be 95% of the current median sales price of a single family home in Montgomery County as per the FHA Limits. The median sales price shall be as documented in the most recent data set accepted by the United States Department of Housing and Urban Development (HUD) for use in this Program.

I. Maximum Loan Amount

1. The maximum amount of a HOME loan may not exceed the per-unit dollar limits established under section 221(d)(3) of the National Housing Act as annually adjusted for bedroom size and incorporated herein by reference.

J. Affordability Period

1. Housing purchased with HOME funds under this program must remain the principal place of residence of the Borrower for a minimum period of time as defined by the amount of HOME funds invested and as shown below:

HOME Funds Invested Minimum Period of Affordability

Under \$15,000- 5 years
\$15,000 to \$40,000- 10 years
Over \$40,000 - 15 years

2. Failure of Borrower to occupy the HOME-assisted unit as his or her principal place of residence for the applicable period shall cause the HOME loan to become immediately due and payable.

K. Loan Documentation

1. All HOME loans shall be evidenced by the following documents and provisions.

- a. Promissory Note (attached hereto as Exhibit "J") payable to City in the principal

- amount of the loan and stating the terms of any interest, if applicable.
- b. Deed of Trust (attached hereto as Exhibit "K") securing the Note; this deed shall be recorded and shall secure City's financial interest in the property.
- c. Other appropriate security instrument naming City as beneficiary.
- d. Request for Copy of Notice of Default.

L. Loan Terms

1. Security:

- a. HOME loans shall be secured by the property, as applicable.
- b. The lien securing repayment of the HOME loan shall be subject only to liens, encumbrances and other matters of record reviewed and approved by the City.

2. Deferment:

- a. Payments shall be deferred for the term of the HOME loan.

3. Repayment: The HOME loan shall be due and payable upon:

- a. Sale or transfer or lease of the property.
- b. Borrower's failure to occupy the Property as Borrower's principal place of residence (Borrower must certify occupancy annually).
- c. Upon default under the HOME promissory note, deed of trust, the deed of trust rider or the covenants, or other recorded documents of record pertaining to the property.
- d. Borrower's cash-out refinance of any superior mortgages.

4. Assumability:

- a. HOME loans are not assumable.

5. Transfer of Interest Exceptions:

- a. The following transfers of interest shall not require repayment of the HOME loan:
 - o Transfer to a surviving joint tenant by devise, descent or operation of the law on the death of a joint tenant.
 - o A transfer, in which the transferee is a person who occupies or will occupy the property, which is:
 - i. A transfer in which the spouse becomes an owner of the property.
 - ii. A transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property.
 - 3) A transfer into an trust in which the Borrower is and remains the beneficiary and occupant of the property.

6. Loan Term:

- a. The HOME loan term shall run concurrently with the term of the first mortgage.

7. Prepayment:

- a. If a Borrower chooses to prepay the HOME loan, in part or whole, at any time before five-years and one month, the entire amount is due and payable.

8. Restrictions on Sale:

- a. The Borrower cannot be restricted from selling the home at its fair market value at any time.
- b. Subsequent buyers, unless assisted with a HOME loan under this Program, do not need to meet the Eligible Household requirements set forth above.

10. Recapture of HOME Funds:

- a. In the event of any event requiring repayment as defined above, the entire amount of the original HOME loan principal and any contingent interest due (if applicable) shall be recaptured by City.