

V. Direct Homeownership Assistance (Sub-Section of OHCD HOME Program Policies)

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a. Project Eligibility

i. Eligible Activities

Activities allowed with the use of Snohomish County Consortium HOME funds are activities that support first-time homebuyers in acquiring affordable homes and that address the needs identified in the Consolidated Plan.

<i>Table 5.1</i>		<i>Eligible Activities</i>	
Activity	Description		
Acquisition of Affordable Housing	Assisting eligible homebuyers to purchase affordable homes through downpayment or closing cost assistance, reducing the monthly carrying costs of a loan from a private lender, or providing mortgages for home purchase.		
Acquisition and Rehabilitation	Assisting eligible homebuyers to perform rehabilitation after purchase, often through rehabilitation loans.*		
*If a prospective homebuyer home is in need of rehabilitation, additional requirements apply. Contact County staff for more information.			

ii. Eligible Properties

Properties that are eligible for HOME assistance include those properties that will serve as the purchaser's principal residence throughout the period of affordability.

HOME assistance may be provided for the following property types:

<i>Table 5.2</i>		<i>Eligible Homebuyer Properties [92.2 and 92.254]</i>		
1-to-4 unit dwelling (single family home, duplex, triplex, or four-plex)	Condominium unit	Cooperative unit	Manufactured home	

Families or individuals must have the following ownership of the eligible property:

<i>Table 5.3</i>	<i>Homebuyer Ownership</i>	
Inclusions [92.2 and 92.254]		
Has fee simple title in a 1-to-4 unit dwelling , or a 99-year lease interest	Owns a condominium unit	Maintains a 50-year leasehold on Community Land Trust
Manufactured housing , including a mobile home, on ground leased for a period at least equal to the applicable affordability period		
Owns or has membership in a cooperative or mutual housing project that constitutes homeownership under State law		
Exclusions		
Has a land contract	Has an installment contract	Has a contract for deeds

MAXIMUM PROPERTY VALUE

To be considered an eligible property, the homes acquired must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.

HUD establishes the median purchase price limits and these limits can be found on their website: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. The County will provide current and updated limits.

iii. Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities, which include:

<i>Table 5.4</i>	<i>Eligible Entities</i>	
Subrecipients: public agency or non-profit organization	Community Housing Development Organizations (CHDO)	

iv. Eligible Applicants/Beneficiaries

Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI). Refer also to [General Requirements: Project Eligibility](#). Income limits are established by HUD; the County will provide current and updated limits.

When determining annual income for homebuyer assistance, income must be calculated in accordance with adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.

INCOME ELIGIBILITY DETERMINATION

The projected annual income of each prospective household must be determined at the time described in the table below. A reexamination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provision of HOME assistance.

<i>Table 5.5</i>	<i>Income Eligibility Determination [92.203]</i>	
HOME Assistance	Timing of Income Eligibility Determination	
Contract to purchase existing housing	Determine eligibility at the time the PJ, or subrecipient, enters into a written agreement with the homebuyer	

Income must be documented according to the acceptable forms of documentation listed in the table below.

<i>Table 5.6</i>		<i>Income Determination Documentation [92.203]</i>
Frequency	Acceptable Forms of Documentation	
Initially (and for Subsequent Determinations if more than six (6) months have elapsed before HOME assistance is provided)	2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the household.	

b. Eligible Project Costs [92.206]

There are a variety of costs that may be paid with HOME funds. Below is a non-exhaustive list of eligible homebuyer project costs; check with Snohomish County to determine the eligibility of costs that fall outside of these examples.

i. Acquisition Costs

Acquisition costs include the costs of acquiring existing or newly constructed single family homes including, but not limited to, the following costs:

<i>Table 5.7</i>		<i>Acquisition Costs [92.206(c)]</i>
Eligible Activity	Examples of Eligible Costs	
Acquisition of property	Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Includes the acquisition of a manufactured housing unit. *	
*The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.		

ii. Project Related Soft Costs

Costs include other reasonable and necessary costs incurred in associated with the financing acquisition of housing assisted with HOME funds. These costs include, but are not limited to:

<i>Table 5.8</i>		<i>Related Soft Costs [92.206(d)]</i>		
Eligible Activity	Examples of Eligible Costs			
Acquisition	<i>Costs to process and settle the financing for a project</i>			
	Private lender origination fees	Credit Reports	Fees for Title Evidence	Fees for Recordation & filing of legal documents
		Attorney's Fees	Private Appraisal Fees & Fees for Independent Cost Estimate	
	<i>Costs to provide information services</i>			
	Affirmative marketing and fair housing information to prospective homeowners			
Loan processing inspections				

	Other services related to assisting potential homebuyers, such as housing counseling (only for individuals who ultimately own or occupy a HOME unit)
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iii. Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

Homebuyer programs must be in compliance with the Homebuyer Down Payment Assistance Program “URA-Policy 2011 #2”. Refer to the [Overarching Program Regulations and Requirements: The Uniform Act and Section 104\(d\)](#).

<i>Table 5.9</i>		<i>Relocation Costs [92.206(f)]</i>	
<i>Relocation Payments</i>			
Replacement Housing Payments	Payments for moving expenses	Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons	
<i>Other Relocation Assistance: Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project</i>			
Timely written notices to occupants	Referrals to comparable & suitable replacement property	Property inspections	Counseling
		Other assistance necessary to minimize hardship	

iv. Ineligible Activities, Costs, and Fees

Refer to the [General Requirement: Eligible Project Costs](#) for a list of ineligible activities, costs, and fees under the HOME Program.

c. Property Standards

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

GENERAL INSPECTION REQUIREMENT [92.504(d)]

The PJ, or an approved state-licensed home inspector, must conduct an on-site inspection of each property prior to occupancy to ensure that the project meets the applicable property standards.

ACQUISITION ONLY

For properties receiving assistance for acquisition only, the property must meet the property standards for existing housing or new construction.

<i>Table 5.10</i>		<i>Property Standards for Acquisition</i>	
HOME Assistance		Housing Requirements	
Existing housing	Must be decent, safe, sanitary and in good repair, and meet all applicable state and local housing quality standards and code requirements. Housing must be free of any deficiencies identified in the Uniform Physical Condition Standards (UPCS). The current standard is housing must meet state and local housing property standards or codes, or in their absence, Housing Quality Standards		

	(HQS), which will be in effect until HUD provides further guidance to implement UPCS.
Newly constructed housing	Must meet state and local codes, ordinances and zoning codes for new construction.
Existing Manufactured Housing	Foundation systems must be inspected and meet the applicable State or local codes, subject to the approval of the PJ's building officials.
	In the absence of State and local codes, must meet the Model Manufactured Home Installation Standards at 24 CFR part 3285.
	Must be connected to permanent utility hook-ups.
New Manufactured Housing	Foundations and anchoring must meet all applicable state and local codes and other requirement.
	Must be on a permanent foundation, meaning a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of 24 CFR § 203.43f(c)(i).
	Must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280.
	Must be connected to permanent utility hook-ups.

***Uniform Physical Condition Standards (UPCS)** is an inspection protocol that is used to evaluate the condition of housing. The PJ uses this inspection protocol as the minimum property condition standard.*

d. Project Underwriting and Subsidy Layering

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment for funds for new construction or rehabilitation. Subsidy Layering also applies to homebuyer units with multiple government funding awards. Refer also to [General Requirements: Project Underwriting and Subsidy Layering](#).

UNDERWRITING STANDARDS [92.254(f)]

The County allows agencies providing purchase assistance to conduct their own screening and loan underwriting for first-time homebuyers, so long as the underwriting procedures are substantially consistent with the following procedures and policy requirements. Each homebuyer subrecipient must provide a copy of their underwriting procedures and policy requirements that must be approved by the County in advance of executing a HOME agreement with the County.

Agencies will complete a Mortgage Subsidy Layering Worksheet provided by the County prior to executing a home loan using mortgage assistance from more than one government agency with the prospective homebuyer and will submit it to the County for approval. The County staff will review each Mortgage Subsidy Layering Worksheet to ensure that there is not an excess of HOME funds awarded to homebuyers. After receiving County approval, an Agency may proceed with the loan. The subsidy layering review documentation for each homebuyer loan will be maintained in each Agency's Project folder.

The sale of a property and any assistance to a homebuyer require that the buyer be underwritten according to the County’s HOME project underwriting guidelines for homebuyers. This underwriting will include standards for the first mortgage and establish the terms for any subordination of the HOME loan. Resale of the property during the affordability period, and if applicable, qualification of subsequent buyers will be governed by the [Snohomish County HOME Homebuyer Program Guidelines for Recapture](#). (Refer to subsection g below)

The PJ’s underwriting guidelines specify how the PJ evaluates the homebuyer’s ability and willingness to pay, and the appropriateness of the proposed HOME subsidy amount. The homebuyer is evaluated according to:

<i>Table 5.11</i>		<i>Homebuyer Evaluation Criteria</i>	
Housing debt and overall household debt	Recurring household expenses	Assets available to acquire the housing	
Monthly expenses of the household		Financial resources available to the household to sustain homeownership	

Generally, underwriting (review of sources and uses) of all HOME projects is required whether or not the projects are assisted with other governmental assistance; however, the following exceptions apply to Homebuyer Assistance only:

<i>Table 5.12</i>		<i>Exceptions [92.250(b)(4)]</i>	
HOME Assistance	Exceptions to the Underwriting Requirement		
Homeownership Assistance	The following general requirements are not required: - Market analysis - Developer capacity assessment		

e. Methods of Assistance

ELIGIBLE FORMS OF SUBSIDY AND SUBSIDY LIMITS

The Eligible Forms of Subsidy and Subsidy Limits established in [General Requirements: Methods of Assistance](#) apply here.

The County may provide gap financing in the form of a deferred loan or grant to affordable housing projects.

f. Minimum Long-Term Affordability Period

To ensure investments provide affordable housing over the long term, the housing must be the principal residence of a low-income household throughout the period of affordability. Funding agreements will define the term of affordability. Affordability requirements will be recorded on the property through:

- A deed restriction or covenant running with the land, or
- Loan documents.

The minimum length of an affordability period is listed in the chart below. Refer to the [Resale and Recapture](#) subsection for more details on those provisions.

<i>Table 5.13</i>		<i>HOME Affordability and Program Compliance Periods</i>	
Maintaining Affordability	Basis for Determining Affordability Period	Average Per Unit HOME Assistance	Minimum HOME Period of Affordability
Resale Provision	Amount of HOME funds invested per unit	<\$15,000	5 years
		\$15,000 to \$40,000	10 years
Recapture Provision	Amount of HOME funds provided as direct assistance to a buyer	>\$40,000	15 years

If HOME funds are used to help a purchase/acquire one or more rental units along with the homebuyer unit, the HOME rental affordability requirements apply to the rental units. Refer to [Rental Housing: Minimum Long-Term Affordability Period](#).

g. Resale and Recapture [92.254(a)(5)]

Resale and recapture provisions apply to the use of HOME funds in homebuyer assistance programs. Snohomish County will allow for the use of either resale or recapture provisions, as appropriate.

Resale or recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability. Refer to the [Minimum Long-Term Affordability Period](#) subsection. Refer to the [Snohomish County HOME Homebuyer Program Guidelines for Resale and Recapture](#).

h. Homebuyer Counseling [92.254(a)(3)]

Homebuyers receiving HOME assistance must receive pre- and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling (NISHEC).

i. Lender Relations [92.254(e)]

When HOME homeownership assistance is provided through a for-profit or nonprofit entity that also provides first mortgage financing to the homebuyer, the following applies:

- A written agreement between PJ and the lender must specify the forms and amount of homeownership assistance the lender is authorized to provide to families and any conditions that apply to the provision of such homeownership assistance;

- Before the lender provides any homeownership assistance to a family, the PJ must verify that the family is low-income and must inspect the housing for compliance with applicable property standards in 92.251;
- The for-profit or nonprofit organizations are not permitted to charge fees (such as origination fees or points) to the family for the HOME homeownership assistance the organization provides; and
- The PJ must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable.

j. Program Policies [92.254(f)]

The agency must use fair housing marketing practices, as detailed further in [Overarching Program Regulations and Requirements: Fair Housing and Civil Rights](#).

PREDATORY LENDING

- All HOME assisted homebuyers must obtain an appropriate term fixed rate conventional (or conforming mortgage), such as a 30 year term
- Homebuyers must receive pre- and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted NISHEC, and also includes education on predatory lending and other financial pitfalls; and
- Homebuyers must receive a homebuyer counseling “certificate of completion”

k. Project Completion Deadline

Typically the County must be able to execute a written agreement with the Agency for the project within 12 months of July 1 of the year in which funding is awarded. The Agency must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

When HOME funds are expended for projects that are terminated before completion, for whatever reason, the HOME funds that have been expended are ineligible and must be repaid. The County must terminate any project that does not meet the HOME requirements for affordable housing (i.e., affordability provisions, income targeting, property standards, etc.) and repay HOME funds expended for the project.

Snohomish County
HOME Homebuyer Program Guidelines for Recapture
DRAFT

I. Recapture Provisions

Recapture provisions apply to the use of HOME funds for homebuyer assistance programs. Snohomish County will allow for the use of recapture provisions, as appropriate.

HOME funds are limited to gap financing. Subsidy layering and/or underwriting must demonstrate that there are no more HOME funds invested, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. The Maximum HOME subsidy per household may not exceed \$50,000.

To be considered an eligible property, the homes acquired must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area. HUD establishes the median purchase price limits and these limits can be found on their website: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. The County will provide current and updated limits.

Homebuyers assisted with HOME funds must qualify as low-and moderate-income at the time of purchase.

Recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer, and are enforced via lien, deed restrictions, or covenants running with the land.

Under recapture, the period of affordability is based on the direct HOME subsidy that enabled the homebuyer to purchase the unit. The recapture period of affordability is outlined in the following table:

Homeownership assistance HOME amount per-unit	Minimum Period of Affordability in years
Under \$15,000	5 years
\$15,000 to \$40,000	10 Years
Over \$40,000	15 Years

The County must be notified of any possible foreclosures or transfers in lieu of foreclosure during the period of affordability to ensure that recapture provisions are followed. The County will recoup any net proceeds from available funds due to foreclosure.

Applicants for HOME funding will need to propose recapture provisions at the time of application for funding and demonstrate how the provisions are consistent with the recapture guidelines.

II. Recapture Guidelines as referenced in 24 CFR 92.254 (5)(ii).

Recapture provisions will be used when the home, purchased using HOME funds as financial assistance that reduces the purchase price for the homebuyer, or as gap financing, is no longer the homebuyer’s principal residence during the period of affordability.

The County has selected the following options for recapture of funds under the HOME program:

- Recapture of the entire direct HOME subsidy;
- Reduction in the amount recaptured based on the amount of time during the period of affordability in which the buyer has occupied the home;
- Share of net proceeds (sales price minus loan repayments, other than the HOME loan, and closing costs).

A. Recapture Entire Direct HOME Subsidy Method

The **direct HOME subsidy** is the amount of HOME assistance, including any program income that enabled the homebuyer to buy the unit. The direct subsidy includes downpayment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer.

The County will be responsible for the enforcement of the recapture provisions and will require the subrecipient to obtain the recaptured funds from the homeowner. Recaptured funds must be used by the subrecipient for other eligible HOME activities or returned to the County. The subrecipient is responsible to monitor that the homeowners continue to use the home as their primary residence.

In the event of recapture, Snohomish County or subrecipient shall collect from net proceeds all HOME funds, including outstanding principal, plus interest, plus shared appreciation (as defined in

Section II (C)). **Net proceeds** are defined as the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

In the event that net proceeds are insufficient to repay the HOME funds, the amount to be recaptured shall be any funds remaining after payment of all superior non-HOME debt and closing costs that are subtracted from the sale price of the home. In no event shall the borrower be required to use funds other than net proceeds to repay the HOME Funds.

B. Reduction During Affordability Period

In the event that the homebuyer transfers the property either voluntarily or involuntarily during the period of affordability, the direct HOME subsidy will be reduced on a pro-rata basis for the time the homebuyer has owned and occupied the housing, measured against the required affordability period. The resulting ratio will be used to determine how much of the direct HOME subsidy would be recaptured. The pro-rata amount recaptured cannot exceed what is available from net proceeds. The formula is as follows:

$$\frac{\text{\# of Years Occupied}}{\text{Period of Affordability}} \times \text{Total Direct HOME Subsidy} = \text{Recapture Amount}$$

C. Shared Net Proceeds (shared appreciation)

If the net proceeds are not sufficient to recapture the entire HOME investment or a reduced amount as described above, plus enable the homebuyer to recover the amount of the downpayment and any investment in the form of capital improvements made by the homebuyer since purchase, the County or subrecipient may share the net proceeds:

1. To calculate the amount of net proceeds (or shared appreciation) to be returned:

Divide direct HOME subsidy by the sum of the direct HOME subsidy and the homebuyer's investment, multiply by the net proceeds to calculate the amount of HOME investment to be returned.

$$\frac{\text{Direct HOME Subsidy}}{\text{Direct HOME Subsidy} + \text{Homebuyer Investment}} \times \text{Net Proceeds} = \text{HOME Recapture}$$

2. To calculate the amount of net proceeds (or shared appreciation) available to the homebuyer:

Divide the homebuyer's investment by the sum of the direct HOME subsidy and the homebuyer's investment, multiply by the net proceeds to calculate the amount of homebuyer investment to return to the homebuyer:

$$\frac{\text{Homebuyer Investment}}{\text{Direct HOME Subsidy} + \text{Homebuyer Investment}} \times \text{Net Proceeds} = \text{Amount to Homebuyer}$$

III. Special Considerations for Single-Family Properties With More Than one Unit

- A. If HOME funds are used to assist a HOME eligible homebuyer to acquire one unit in single family housing containing more than one unit, recapture affordability requirements listed on Page 1, apply only to the assisted unit.
- B. If the HOME funds are used to help a HOME eligible homebuyer purchase or acquire one or more rental units along with the homebuyer unit, the HOME rental affordability requirements at 24 CFR 92.252 apply to the rental units.
- C. HOME funds may be used to assist HOME eligible homebuyers through lease-purchase programs for existing housing and for housing to be constructed, but the homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed.
- D. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program and the housing is not transferred to the homebuyer within forty-two months after the project completion, the rental housing affordability requirements at 24 CFR 92.252 will apply.