

CHAPTER 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually. See Section 8-II. G for further details.

HUD also requires the PHA to determine that rents for units under the HCV program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and the PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

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PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS HUD

Performance and Acceptability Standards

This paragraph list HUD's 13 acceptability standards and references two exhibits. Exhibit 8-1 provides a summary of the standards, and Exhibit 8-2 identifies areas of tenant preference. HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Participant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered participant preferences.

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Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the participant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the participant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31]. Any owner that intends to negotiate a restoration agreement or require escrow amounts must submit the agreement to OHCD for review.

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

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8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice for families. HUD approval is required for variations to the HQS. HUD approval is not required if the PHA variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

OHCD Policy

Four Things a Room MUST Have to be Considered a Bedroom:

- **Entrance:** A bedroom needs at least two methods of egress, so it should be accessible from the house (commonly through a door), and then have one other exit (window or door).
- **Ceiling Height:** A bedroom ceiling needs to be at least 7 ft. tall. It is okay if some of portion of the ceiling are below this level, but at least 50% of the ceiling needs to be a minimum of 7 ft. in height. Most ceilings tend to be at least 8 ft. tall.
- **Escape:** A bedroom must have one other method of egress beyond the entrance point. A door to the exterior works as an exit point and so does a window. According to the International Residential Code, a bedroom window can be between 24 and 44 inches from the floor, it needs at least 5.7 square feet for the opening, and it must measure no less than 24 inches height and 20 inches wide.
- **Size:** The bedroom should be at least 70 sq. ft. and more specifically the room cannot be smaller than 4 feet in an horizontal direction.

Walls – In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced. Any exterior or interior services with peeling and chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material.

Windows – All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced. Windows must be weather stripped as needed to ensure a watertight seal. Window screens must be in good condition (applies only if screens are present). Any room for sleeping must have a window. In the absence of mechanical ventilation, insect screens for windows are required for natural ventilation.

Doors – All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold. All interior doors must have no holes, have all trim intact and be openable without the use of a key.

Floors – All wood floors must be a smooth surface and sealed. Re-secure any loose or warped boards and make level. If flooring cannot be leveled, they must be replaced. All floors must be in a finished state, no plywood. All floors should have some type of base shoe trim or sealing for a “finished look”. Vinyl base shoe is acceptable for kitchens and baths. Carpeting, vinyl or ceramic floor covering should not have rips, tears or broken tile due to trip hazard.

Sinks – All sinks and commode water lines must have shut off valves, unless faucets are wall mounted. Toilet should fit securely to the floor. All worn or cracked toilet seats and tank lids

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must be replaced and toilet tank lid fit properly. There should be no signs of water leaks from pipes. All sinks must have functioning stoppers.

Baths – All baths must have sink and water closet, which operate properly. If the bath has a tub, the tub must have a stopper. All faucets must be operational without leaks.

Bedrooms – Bedrooms in basements or attics are not allowed unless they meet local code requirements (including window) and must have adequate ventilation and emergency exit capacity. Minimum bedroom ceiling height 7' 6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Security – If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system. Owners are responsible for providing and replacing old batteries for battery powered smoke detectors. Tenants will be instructed not to tamper with smoke detectors or remove batteries. Smoke detectors are required on each floor. For properties with gas the owner is responsible to have carbon monoxide detectors on each floor with gas appliances (stove/heating system).

Roof and Gutters – Roof should not show signs of curling or missing shingles. If so roof needs to be patched or replaced. All gutters must be secured to the fascia board with down spouts away from the foundation of the house.

Chipping or Peeling Paint – If property shows signs of chipping and peeling paint the area must be repaired using "Safe Work Practices".

Prince William County Zoning Ordinances Section 32-300.13

The Prince William County Zoning Ordinance states:

- Properties can only have 1 kitchen unless a special permit was approved.
- There can be no more than 3 unrelated adults residing in a property.
- If room(s) or a basement is being rented the tenants must have access to the kitchen, laundry facility and full access to the entire property.
- No portion of a property being rented can be locked and/or separated for that tenant from the rest of the residents

In the event that a property violates this Zoning Ordinance the property is not eligible for consideration under the Housing Choice Voucher Program.

Thermal Environment [HCV GB p.10-7]

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

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OHCD Policy

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

OHCD Policy

OHCD will follow its Housing Quality Standards manual (Exhibits 8-3 and 8-4) when performing inspections on assisted units.

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8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of the PHA notification.

OHCD Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Structural hazard including imminent structural collapse
- Natural or LP gas or fuel oil leaks
 - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
 - A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
 - A light fixture is hanging by its wires
 - A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
 - An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
 - A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
 - Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
 - Exposed bare wires or electrical connections
 - Any condition that results in openings in electrical panels or electrical control device enclosures
 - Water leaking or ponding near any electrical device
 - Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
 - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
- Absence of a functioning toilet in the unit
- Missing or inoperable smoke detectors
- Missing or inoperable carbon monoxide detector
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

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- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
 - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
 - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
 - A fuel-fired space heater is not properly vented or lacks available combustion air
 - A non-vented space heater is present
 - Safety devices on a fuel-fired space heater are missing or damaged
 - The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six year of age if it would prevent the family from moving into the unit
- Open sewage in the unit
- Severely broken window panes that are within the reach of family members

If an owner fails to correct life-threatening conditions as required by OHCD, OHCD will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by OHCD, OHCD will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector and/or carbon monoxide detectors unless OHCD determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector and/or carbon monoxide detectors within 24 hours.

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8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Participant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family.
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the participant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

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8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD-LEAD LEVEL (EBLL) [24 CFR 35.1225; FR Notice 1/13/17, Notice PIH 2017-13]

If the PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than **six (6)** years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

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8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets).

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

OHCD Policy

Reasonable Accommodation: Annual requirement to verify use of extra bedroom. If a family member has been approved for an extra bedroom as a Reasonable Accommodation for Medical equipment; Separate sleeping room for the person with a disability; or a live-in aide, OHCD will verify at each inspection whether or not the extra bedroom is being utilized as approved in the reasonable accommodation.

Examples of improper use of the extra bedroom include but are not limited to:

- size of equipment does not warrant an extra bedroom
- no medical equipment present in the extra bedroom
- bedroom not utilized as a bedroom for live in aide
- bedroom not utilized as a bedroom for the person with a disability

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PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection on or before the effective date of the HAP Contract.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or re-inspections [24 CFR 982.405(e)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for re-inspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

OHCD Policy

OHCD will not charge a fee for failed re-inspections.

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Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)].

OHCD Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, OHCD will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

OHCD Policy

When a family occupies the unit at the time of inspection, an **authorized** adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, OHCD will inspect the unit in the presence of the owner, or owner's representative. If the owner is not available for the inspection or a representative, the owner can grant permission for OHCD to inspect the unit by providing the "lock box" key code. The presence of a family representative is permitted but is not required.

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8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

OHCD Policy

OHCD will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

OHCD will not approve assisted tenancy and start HAP until the unit passes HQS inspection. OHCD will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

If an RTA has been received for a unit and the unit is not ready for inspection within 15 calendar days, OHCD will deny the RTA.

Inspection Results and Re-inspections

OHCD Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by OHCD for good cause. OHCD will re-inspect the unit within 5 business days of the date the owner notifies OHCD that the required corrections have been made.

If the time period for correcting the deficiencies (or any OHCD-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, OHCD will notify the owner and the family that the unit has been rejected and that the family must search for another unit. OHCD may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval (HUD 52517) after the owner has made repairs, if they are unable to locate another suitable unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. Especially when a unit may have been vacant for some time, the owner may not want to put utilities back online until it is clear that the PHA will otherwise accept the unit into the program. For this reason, some PHAs are willing to inspect the unit for all other standards and make a subsequent inspection to confirm that utilities are in working order.

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OHCD Policy

All utilities must be in service for testing at the time of the initial inspection. If utilities are not in service at the time of initial inspection, the OHCD inspector must re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by OHCD.

Appliances

OHCD Policy

If the family is responsible for supplying the stove and/or refrigerator, OHCD will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by OHCD. OHCD will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

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8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405; and 982.406; PIH Notice 2016-5]

Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have option to inspect every unit annually.

OHCD Policy

An HQS inspection may be conducted every other year (within a 24-month period), dependent on the following general criteria:

- If the unit successfully passed the prior year's HQS inspection,
- If the landlord and/or tenant has not requested an Special or Emergency HQS inspection to be done since the last required HQS inspection, and
- If there have been no HQS complaints about the unit from the tenant.
- Adherence to HUD policy for SEMAP review of HQS inspections

The option to perform biennial inspections applies only to assisted units during the term of a HAP annual renewal contract and not to an Initial or Relocation HQS inspection. OHCD must still perform a HQS inspection prior to executing an initial HAP contract, and on an interim basis when requested by a family or government official. For units which have been HQS inspected within the last 12 months, OHCD may re-inspect within 24 months of the most recent inspection. For units which have not been HQS inspected within the past 12 months, OHCD must conduct an annual inspection and may then schedule the next inspection within 24 months. OHCD will use the results of previous inspections to make a determination whether an inspection will be completed every 12 months or every 24 months.

This new Biennial Inspections policy is aligned with HUD's regulations and goal to using affordable housing as a platform for demonstrating optimal government program service delivery.

Qualified Units Criteria (for Biennial HQS Inspection)

OHCD will use the following criteria when selecting "qualified units" for either "Annual" (within 12 months) or "Biennial" (within 24 months) HQS (Housing Quality Standards) Inspections for any housing unit on the Housing Choice Voucher program:

For Prior HQS Annual Inspections

- For any unit that PASSED a prior year HQS Annual Inspection, ON THE FIRST VISIT, this unit may be shifted to a "BIENNIAL" HQS INSPECTION"
- For any unit that FAILED a prior year HQS Annual Inspection ON THE FIRST VISIT WITH 0 – 10 (ZERO TO TEN) FAIL ITEMS but PASSED WITHIN 30 DAYS OF THE INSPECTION DATE, this unit may be shifted to a "BIENNIAL" HQS INSPECTION"

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- For any unit that FAILED a prior year Annual Inspection ON THE FIRST VISIT WITH 11 (ELEVEN) or MORE FAIL ITEMS, this unit must have an “ANNUAL” HQS INSPECTION”

For Prior HQS Initial Inspections

- For any unit that PASSED a prior year Initial Inspection ON THE FIRST VISIT, this unit may be shifted to a “BIENNIAL” HQS INSPECTION”
- For any unit that FAILED a prior year Initial Inspection ON THE FIRST VISIT WITH 0 – 10 (ZERO TO TEN) FAIL ITEMS but PASSED AN INITIAL REINSPECTION WITHIN 14 DAYS OF THE FIRST VISIT, this unit may be shifted to a “BIENNIAL” HQS INSPECTION”
- For any unit that FAILED a prior year Initial Inspection ON THE FIRST VISIT WITH 11 (ELEVEN) or MORE FAIL ITEMS, this unit must have an “ANNUAL” HQS INSPECTION” the following year regardless of whether the unit passed the required INITIAL REINSPECTION OF THE 11 (ELEVEN) or MORE FAIL ITEMS

Scheduling the Inspection

OHCD Policy

If an adult cannot be present on the scheduled date, the family should request that OHCD reschedule the inspection. OHCD and family will agree on a new inspection date that generally should take place within **five (5)** business days of the originally scheduled date. OHCD may schedule an inspection more than **five (5)** business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, OHCD will automatically schedule a second inspection. If the family misses two scheduled inspections without OHCD approval, OHCD will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

OHCD will not accept the result of inspections performed by HUD or for the HOME or LIHTC programs.

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8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition in which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

OHCD Policy

During a special inspection, OHCD generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/**biennial** inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, OHCD may elect to conduct a full annual/**biennial** inspection.

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8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

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8-II.F. INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

OHCD Policy

When life-threatening conditions are identified, OHCD will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of OHCD's notice.

When failures that are not life-threatening are identified, OHCD will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days from the date of the inspection letter will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any OHCD-approved extension), the owner's HAP will be abated in accordance with OHCD policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any OHCD-approved extension, if applicable) the family's assistance will be terminated in accordance with OHCD policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

OHCD Policy

Extensions will be granted in cases where OHCD has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

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The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided. (NOTE: Generally for winter delays, repairs must be completed no later than June 15th.)

Re-inspections

OHCD Policy

OHCD will conduct a re-inspection by the end of the corrective period, or any OHCD approved extension. The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, OHCD will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with OHCD policies.

If OHCD is unable to gain entry to the unit in order to conduct the scheduled inspection, OHCD will allow the re-inspection to be rescheduled once. If OHCD is unable to gain entry to the unit in order to conduct the rescheduled inspection, OHCD will consider the family to have violated its obligation to make the unit available for reinspection. This may result in termination of the family's assistance in accordance with Chapter 12.

OHCD will accept photos from the owner to document specific HQS deficiency repairs identified on the inspection form. OHCD will determine if submitted photo is acceptable for verification of corrected deficiency.

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8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

OHCD Policy

OHCD will make all HAP abatements effective the first of the month following the expiration of OHCD specified correction period (including any extension).

OHCD will inspect abated units within five (5) business days of the owner's notification that the work has been completed.

Payment will resume effective on the day the unit passes inspection.

OHCD reserves the right to immediately terminate the HAP contract and issue the participant a voucher to move if the unit is uninhabitable.

Moves during Abatement

In order to move with continued assistance during the abatement period, the participant must provide to both OHCD and the owner either:

- A signed Mutual Lease Termination if they are in their initial lease term; or
- Written 30-day notice if currently under a month to month lease and must be in Good Standing.

During any abatement period the participant continues to be responsible for its share of the rent. The owner must not seek payment from the participant for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

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OHCD Policy

The maximum length of time that HAP may be abated is 30 days. However, if the owner completes corrections and notifies OHCD before the termination date of the HAP contract, OHCD may rescind the termination notice if (1) the family wishes to remain in the unit and (2) the unit passes inspection. Reasonable notice of HAP contract termination by OHCD is 30 days. **If the corrections are made after the termination of the HAP Contract and the family wishes to remain in the property, a new HAP Contract and Lease would need to be executed.**

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8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

CHAPTER 8

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

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8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

OHCD Policy

For rent reasonableness, property evaluations are based upon the number of bedrooms, baths and square footage on the County Assessment. If the owner has made alterations to the property such as finishing a basement or adding an additional bath if permits are pulled then the additional bedrooms and baths are reflected on County Assessment.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, OHCD may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises OHCD will consider unit size and length of tenancy in the other units.

OHCD will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination.

All rent adjustments will be effective the first of the month following 60 days' after OHCD's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

OHCD Policy

In addition to the instances described above, OHCD will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) OHCD determines that the initial rent reasonableness determination was in error or (2) OHCD determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

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LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance. For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

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8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires the PHA to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent.

Units that Must Not be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20 and Notice PIH 2011-46].

Note: PIH Notice 2011-46 issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

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8-III.D. PHA RENT REASONABLENESS METHODOLOGY

HUD requires the PHA to describe its methodology for making rent reasonableness determinations. Section 8-II.D is intended to be that description. The PHA should describe three aspects of the methodology: (1) how the PHA collects market data, (2) how the PHA uses the information collected and (3) how negotiations with owners will be handled. Each of these is discussed below.

How Market Data Is Collected

OHCD Policy

OHCD will collect and maintain data on market rents in OHCD's jurisdiction. Information sources include MRIS, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents Are Determined

OHCD Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. Typically, units may be similar, but not exactly like the unit proposed for HCV assistance. Therefore, OHCD may make upward and downward dollar adjustments for differences between the proposed HCV unit and the comparable to determine the reasonable rent for the HCV unit.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g. the presence of absence of a garbage disposal may not affect the rent in some market areas). In comparing rents, OHCD will take into account critical market factors that impact rent, including the location, quality, size, unit type and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Adjustments may vary by unit type (e.g. a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g. it might cost \$20,000 to put on a new roof, but the new room might not make any difference in what a tenant would be willing to pay because rental units are presumed to have a functioning roof).

When a comparable project offers rent concessions (e.g. first month rent free or reduced rent) the concession is allocated over a 12-months and subtracted from the monthly rent to arrive at a true base rent. For example, if a comparable project reports rent of \$500/month, but new tenants

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receive the first month's rent free, the actual rent for the unit would be calculate as follows:
 $\$500 - (\$500/12) = \text{actual monthly rent of } \$458.$

The OHCD will notify the owner of the rent OHCD can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. OHCD will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the OHCD's request for information or the owner's request to submit information.

CHAPTER 8

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

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

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons. All doors and windows must lock.

Thermal Environment

The unit must have a safe system for heating and cooling the dwelling unit. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

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. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

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Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- Provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the OHCD
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance, ask each family to report deteriorated paint
- **Maintain covered housing without deteriorated paint if there is a child under six in family.**

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the OHCD). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint, requirements see 24 CFR 35, Subparts A, B, M, and R.

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Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke and Carbon Monoxide Detectors

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 person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Carbon Monoxide detectors is a device that detects the presence of the carbon monoxide (CO) gas in order to prevent carbon monoxide poisoning. CO detectors are designed to measure CO levels over time and sound an alarm before dangerous levels of CO accumulate in an environment, giving people adequate warning to safely ventilate the area or evacuate. Some system-connected detectors also alert a monitoring service that can dispatch emergency services if necessary.

Every home with at least one fuel-burning appliance/heater, attached garage or fireplace should have a carbon monoxide alarm. If the home has only one carbon monoxide alarm, it should be installed in the main bedroom or in the hallway outside of the sleeping area. An alarm should be installed on every level of the home and in sleeping areas.

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

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EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

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- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.