

# **POLICIES AND PROCEDURES MANUAL**

for the Homebuying HERO Program

Homebuyer Education and Readiness Opportunity



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Established: July 1, 2024

Revised: November 19, 2024

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## **A. Introduction**

The City of Fayetteville's Homebuying HERO Program ("the Program") is administered by the Economic & Community Development department in partnership with non-profit community partners who have been certified by the U.S. Department of Housing and Urban Development (HUD) as housing counseling providers.

We believe that homeownership does not have to feel like an unattainable goal. Once a resident completes the First Time Homebuyers Workshop, participates in one-on-one individualized counseling, selects a lender, is approved for a mortgage, and then finds a home, the participant can apply for down payment assistance through our Homebuying HERO Program.

## **B. Program Background, Description, and Objectives**

The Economic & Community Development department will use federal and/or local funds for a Homebuying HERO Program that links homebuyer education and housing counseling with purchase and closing cost assistance for fixed rate, responsible lending mortgage loan products. The program seeks to create a seamless process for homebuyers in which they receive HUD-approved homebuyer education as well as purchase and closing cost assistance.

The Homebuying HERO Program seeks to enable long-term, successful homeownership by providing citywide homebuyer education and counseling services that produce certified homebuyers who qualify for fixed rate, responsible lending mortgage loans. The program also seeks to expand the supply of decent affordable housing available to income-eligible households by expanding the city's efforts to affirmatively further fair housing opportunities pursuant to Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) as amended and implemented at 25 CFR 100; Title VI of the Civil Rights Act of 1964; the Age Discrimination Act of 1975; Executive Orders 11063 and 12259 as implemented at 24 CFR Part 107; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans With Disabilities Act.

Qualifying applicants may receive up to \$20,000 and qualified City of Fayetteville and public service employees may be eligible for up to \$30,000 in funds in assistance for down payment, closing costs, and gap financing as a forgivable loan at zero percent interest.

The home must be located within Fayetteville city limits.

Public service employees are defined as Cumberland County (Health Dept., Sheriff's Office, Social Services, ABC Stores, Public Library, Animal Control, and others), Cumberland County Schools, and Cape Fear Valley Health System.

The program is for households up to 120% (up to 140% for City of Fayetteville Employees) of the area median income (AMI). All applications must be submitted through a participating lender.

The First Time Homebuyers Workshop is a required first step in the application process. By attending this workshop, program participants will gain an understanding of the entire home buying process – including budgeting for homeownership, shopping for a home, obtaining a mortgage, closing procedures, and the responsibilities of maintaining a home after purchase.

One-on-one counseling with a HUD certified housing counseling provider is the second step that should be completed, but it may not be necessary for all homebuyers. This personalized counseling session will provide the applicant with a deeper understanding of the responsibilities of homeownership, financial management, and credit management among other topics to be determined by the counseling agency (see Section H "Homebuyer Education & Counseling" below for more information).



Interested applicants can visit the Economic & Community Development website for resources on enrolling in the First Time Homebuyers Workshop, finding a participating lender, and finding a real estate agent.

Applications should be submitted by a participating lender and maximize all other down payment assistance programs available to the applicant.

### **C. Homebuyer Eligibility Criteria**

The buyer's income eligibility is based on total gross household income when compared to the area median income as defined by HUD for the Fayetteville, NC Metro Area adjusted for household size. Federal funding is available on an annual basis for households not exceeding 80% AMI. Local funding is available until exhausted for households between 80%-120% AMI.

All adult members of the buyer's household earning income must be counted when evaluating income eligibility. The current year limits can be found by visiting HUD's website (<https://www.huduser.gov/portal/datasets/il.html>). The AMI limit can be calculated by dividing the 80% AMI limit by 0.8 and then multiplying the product by 1.2 for 120% and by 1.4 for 140%.

### **Eligibility Criteria for Applicants**

1. The applicant must be a first-time homebuyer as defined by HUD. According to the HUD reference guide (Chapter 3, Miscellaneous Policies, Page 3-02), a person is considered a first-time homebuyer if they meet any of the following criteria:
  - a. An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse (if either meets the above test, they are considered first-time homebuyers).
  - b. A single parent who has only owned with a former spouse while married.
  - c. An individual who is a displaced homemaker and has only owned with a spouse.
  - d. An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
  - e. An individual who has only owned a property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure. ([HUD Archives: HOC Reference Guide -- First-Time Homebuyers \(Page 3-02\)](#))
2. The applicant must complete the First Time Homebuyers Workshop and one-on-one counseling with the program's HUD certified housing counseling provider.
3. Income eligibility for the Homebuying HERO Program will be calculated in accordance with 24 CFR Part 5. The City or its Administering Agency must calculate the gross annual income of the household by projecting the prevailing rate of income for the household at the time the City or its Administering Agency determines the family is income eligible for the Program. Pursuant to 24 CFR Part 5, at least two (2) months of source documentation (e.g., wage statements, interest statements, or unemployment compensation documentation) will be required when determining household income for all potential beneficiaries.
4. Income eligibility must be determined within six (6) months of purchasing a home



assisted with Homebuying HERO Program funding. Recertification will be necessary if purchase is not made within six (6) months of initial determination. In the event of a change in employment or salary/wage rate, the City may require more than two (2) months of source documentation to determine income eligibility.

5. A household's **liquid assets** remaining **after** down payment and closing costs may not exceed \$50,000.00.
6. All eligible Homebuying HERO loans must involve the transfer of title at time of closing.
7. The applicant must meet debt-to-income ratio requirements. The homebuyer's front ratio cannot be below 20% and cannot exceed 35%. Their back ratio cannot exceed 45%. Please see Section E, Subsection 2 "Front and Back Ratios" below for further explanation.
8. Applicant must meet the required credit rating as established by their chosen lender. The Homebuying HERO Program has no specific requirements regarding credit rating at this time.

#### **D. Determining Assistance Amount**

The amount of Homebuying HERO provided to an eligible low-income household cannot exceed \$20,000, or \$30,000 for City of Fayetteville and public service employees, for the purchase of a single-family home within the City limits of Fayetteville.

The actual amount of a buyer's assistance shall be computed after the applicant has:

- identified a home to purchase; and
- has been pre-approved for a first mortgage in an amount such that their front and back ratios would not exceed the limits specified in Section E, Subsection 2 "Front and Back Ratios" below.

The Program assistance shall not exceed the amount needed to allow the applicant to become homeowners ("the affordability gap") while keeping their housing costs affordable.

The first mortgage lender will use their underwriting standards, such as front and back ratios, credit score, and income, and so on to determine the maximum first mortgage amount. The City will verify that the first mortgage meets the first mortgage requirements contained herein, and the Program grant amount will be equal to the amount, required to bridge the gap, between the acquisition cost minus the down payment, the first mortgage, and any other funds available to the buyer, **not to exceed \$20,000 (\$30,000 for City of Fayetteville and Public Service employees).**

The assistance will be in the form of a zero percent (0%) interest deferred payment loan that may be completely forgiven at the end of the affordability period if compliance with regulations and the written agreement for Program assistance has been maintained. **The owner must occupy the home for the full term of the loan as his/her primary residence to be eligible for full loan forgiveness.**

#### **E. Underwriting Policy**

The City of Fayetteville will assume a subordinate lender position to the primary mortgage. The City will appear subordinate to other down payment assistance programs from federal, state, or county agencies. Any subordinate lender position beyond third will then be subject to approval by the Director of Economic & Community Development for the City of Fayetteville.



## 1. First Mortgage Requirements

Fully documented first mortgages approved for funding by FHA, the VA, or a large institutional lender that underwrites to Fannie Mae, Freddie Mac, the VA, or FHA standards will be acceptable to establish the applicant's ability to make payments and dependability of income, in addition to the program's underwriting standards explained below.

Loans approved without full income documentation of the mortgagor(s), often referred to as **"no doc" or "stated income" loans** may not be used to purchase a home with the help of the Homebuying HERO Program.

The first mortgage must have a fixed interest rate for the entire term. The rate cannot be more than 100 basis points over the average weekly rate at the time of the first mortgage commitment in the Primary Mortgage Market Survey published by Freddie Mac.

No temporary interest rate buy-downs are permitted. Sub-prime rates, adjustable rates, interest-only options, and/or any type of negative amortization **shall not** be acceptable in the first mortgage.

The first mortgage shall be fully amortized over the term of the loan and have a term "all due and payable" in no fewer than 30 years. There shall be no balloon payment requirements or prepayment penalties included in the terms of the first mortgage.

## 2. Front and Back Ratios

In order to qualify for program assistance, the homebuyer's front ratio cannot exceed 35%. The front ratio is the percentage of gross monthly income the individual homebuyer is expected to pay for monthly housing costs (i.e., mortgage principal and interest, real estate taxes, and homeowner's insurance). In order to prevent over-subsidy, the minimum front ratio shall be 20%.

The applicant's "back-ratio" shall not exceed 45%. The back ratio is the percentage of a borrower's gross monthly income that would be required to cover the front-ratio costs (monthly housing costs), plus any other mandatory monthly debt payments, such as: car loans, personal loans and credit cards, alimony or child support ordered by a court, and/or student loans.

## 3. Escrow Account

All households will be required to have escrow accounts for the payment of property taxes, property insurance, and ground lease fees if applicable.

## F. Affordability Period

The buyer must maintain the assisted property as their primary residence for the duration of the affordability period. The affordability period is based on the amount of assistance received, as per the table below.

Homebuying HERO Program Loan Amount	Required Affordability Period in Years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

As currently designed, the maximum assistance amount of \$20,000, or \$30,000 for Public Service employees, requires a ten-year affordability period. City of Fayetteville employees will require a five-year affordability period.



The Homebuying HERO Program will confirm primary residency requirements on an annual basis through homeowner certifications, utility consumption, and/or tax records.

Enforcement of this affordability period is ensured through the recapture provisions described below. The principal legal documents that are used to enforce the recapture restrictions are a promissory note and a deed of trust.

#### **G. Recapture Requirements**

If the assisted housing is transferred during the affordability period (whether voluntarily or involuntarily such sale or disposition of the property), repayment of the direct subsidy the buyer received when purchasing the property will be immediately repaid from the net proceeds of the sale. Net proceeds are defined as the sales price of the home minus superior loan repayments and any closing costs. Recapture will be triggered **even if** the sale or transfer is to another income eligible household.

If the original homeowner sells their assisted housing during the affordability period, the amount of assistance recaptured by the program will be based on a pro rata basis. The amount is calculated by the length of time the housing was occupied versus the length of the affordability period. The reduction in the amount due will occur annually on the anniversary of the closing of the loan. The annual reduction will be calculated by dividing 1 by the number of years in the affordability period and reducing the award amount by that amount every year for the term of the loan.

For example, for a five-year affordability period, the loan amount will be reduced by 20% of the initial loan amount annually on the anniversary of the loan closing, for the life of the loan. For a 10-year affordability period, the loan amount will be reduced by 10% of the initial loan amount annually on the anniversary of the loan closing for the term of the loan.

*Example: On January 2, 2020, Mr. Harvey received an \$8,000 direct subsidy through the Homebuying HERO Program to purchase a home, thereby triggering a five-year affordability period. He is in compliance with program regulations through August 8, 2023, at which point he sells the home. The balance of his loan was reduced by \$1,600 on the Jan 2, 2021 and another \$1,600 on January 2 2022. At the time of sale he must repay \$4,800 of his Homebuying HERO Program loan from the net proceeds of the sale (\$8,000-\$3,200). "Net proceeds" are defined as the sales price of the home minus superior loan repayments and any closing costs.*

Note: Specially designed programs for entire single family housing development programs may have a different recapture period or term.

#### **H. Homebuyer Education & Counseling**

Applicants receiving Homebuying HERO Assistance Program funds must attend a homebuyer education workshop from a HUD-approved housing counseling agency and attend one-on-one homebuyer counseling (if necessary). Homebuyer education & counseling will be provided by non-profit community partners and will be paid for by the City.

Program participants who have received HUD-approved housing education & counseling from another agency prior to applying to the Homebuying HERO Program may forgo counseling with the program's partner if they provide evidence that they have completed an 8-hour counseling elsewhere within the past twelve (12) months.

##### **1. First Time Homebuyers Education Workshop**

The First Time Homebuyers Education Workshop is a required 8-hour course. Covered topics may include money management, mortgage terminology, closing procedures, maintaining a



home, and financing a home. The course also includes presentations from guest speakers, such as lenders and realtors in our community.

The workshop will also assist homebuyers as they begin the tasks of creating and maintaining budgets, differentiating between needs and wants in a home, and setting long and short term goals financial goals. There is an emphasis placed on credit scores; including how to restore credit once it has been damaged

## **2. One-on-One Homebuyer Counseling**

The one-on-one counseling session is conducted with a HUD-certified housing counselor to assist the first time homebuyer with determining what obstacles may be preventing them from becoming a homeowner, what steps to take to overcome those obstacles, and to determine eligibility for any down payment assistance programs.

In the counseling session, the counselor reviews the first time homebuyer's income and expenses to assist them with determining an affordable mortgage payment. The counselor also reviews the credit report with the homebuyer to determine if debts need to be paid off or paid down so they can be eligible for programs. Credit scores are also discussed at this point.

The counselor also reviews with the first time homebuyer the various types of mortgages that are available, such as FHA, VA, Conventional, and USDA, as well as all of the down payment assistance programs that they appear to be eligible for. Finally, an action plan is completed by the counselor which shows the first time homebuyer their next steps to take in the home buying process. This action plan often includes a list of lenders for the homebuyer to interview.

Follow up counseling sessions are conducted as needed.

### **I. Eligible Property Types**

Eligible properties are one family residential unit located within the City of Fayetteville. The eligible property being acquired must comply with all applicable Federal, State and local laws.

The property must be used as the applicant's primary residence for the term of the loan.

Single-family (detached or attached) and modular homes are eligible, however, single- or double-wide mobile homes are not eligible for program assistance.

Investment properties are ineligible for Homebuying HERO Program funding. (ask staff for details)

### **J. Other Requirements**

In addition to the requirements explained above (income, lending, education and counseling, recapture, and property types), the following requirements MAY apply (depending on funding source).

#### **1. Written Agreements**

The homebuyer will enter into a written agreement with the City of Fayetteville detailing all requirements of the Homebuying HERO Program, including, but not limited to, recapture guidelines, affordability period definition, income eligibility guidelines, housing quality standards, lead paint hazard standards, site inspections, program monitoring, and noncompliance remedies and record keeping responsibilities.



## **2. Lead Based Paint – Properties Constructed Prior to January 1, 1978**

Properties assisted by the Homebuying HERO Program must be free of lead paint hazards and are subject to HUD's Lead Safe Housing Rule at 24 CFR Part 35. All program-assisted buyers will be issued a copy of the HUD pamphlet "Protect Your Family from Lead in Your Home" and will sign a receipt acknowledging that they have been provided said pamphlet.

Evidence of lead-based paint hazards and appropriate remediation (if necessary) will be determined by the City of Fayetteville. Lead hazard reports must be no less than 90 days old at the time of commitment.

## **3. Uniform Relocation Act (URA) Compliance— Federally Assisted Properties**

Prior to application approval, the City or its Administering Agency must receive a completed URA Voluntary Sales Disclosure from the seller that lists all individuals, owner and non-owner occupants, that have occupied the property within ninety (90) days of the purchase offer.

If the property being purchased has been occupied within ninety (90) days prior to the date of the purchase offer by anyone other than the legal owner, the City must determine that no one will be displaced by the transaction. The City will use the definitions of Displaced Person and Persons Not Displaced as per 49 CFR 24.2.

## **4. Environmental Review— Federally Assisted Properties**

Pursuant to Part 58, properties must also pass an environmental review performed by a member of the Economic & Community Development department. Properties located in a flood plain will require the buyer to purchase City-approved flood insurance.

## **5. Local Codes**

Properties assisted by the Homebuying HERO Program must comply with local housing code and pass an inspection by the City of Fayetteville Economic & Community Development Senior Housing Specialist. Inspection reports must be no less than 90 days old at the time of commitment. The City or its Administering Agency must receive copy of the home inspection report with the application or be available to them prior to commitment of City funds.

## **6. Clear Title**

The property must be free of any liens or encumbrances and have a clear title on the date that it is acquired by the homebuyer.

## **7. Sales Price Limitation if Funded by the HOME Investment Partnership**

In general, the sales price of a home will be limited by front and back ratios. If the Program will be funding the down payment assistance loan through federal HOME Investment Partnership funding, the following limitation will also apply:

The sales price of the property being purchased **may not exceed** 95% of the median purchase price for single-family housing for the City of Fayetteville as established by the U.S. Department of Housing and Urban Development using FHA single-family mortgage program data. See website for more information: (<https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>).

## **8. Mortgages and Notes**

The Homebuying HERO Loan shall be secured by a Mortgage Note and Mortgage Deed, to be recorded on the Cumberland County Land Record by the homebuyer's attorney. Copies of recorded documents are to be returned to the Economic & Community Development department.



The Mortgage Note and Mortgage Deed shall reference all applicable program regulations, including, but not limited to, affordability period and primary occupancy requirement.

**K. Subsidy Layering Policy**

The Homebuying HERO Program will conduct a subsidy layering review for each loan. A positive determination by the program in each of the following key evaluation points is required to pass the subsidy layering review.

1. The program is not investing more federal and/or local funds than necessary to provide affordable housing;
2. The total available funding (both private and public) does not exceed the total purchase price of the home;
3. The closing costs and fees are customary and reasonable in terms of industry standards;
4. The applicants are not receiving excessive profit or windfalls from the sale (no cash back to borrower at closing). Cash back to the borrower that is \$100 or less does not need to be returned to the City.

**L. Subordination Policy (Refinancing After Initial Purchase)**

After the initial purchase and during the affordability period, the subordination of a loan may be granted at the discretion of the City of Fayetteville. A request for subordination of a Homebuying HERO Program down payment assistance loan must be in writing and must demonstrate that the new mortgage to which Homebuying HERO will subordinate is for one or more of the following purposes:

1. The homebuyer wishes to refinance an existing mortgage to obtain a reduced (fixed) interest rate resulting in a lower monthly payment for the borrower (no cash out).
2. The homebuyer wishes to refinance an existing mortgage to obtain a comparable (fixed) interest rate and extended payment terms resulting in a lower monthly payment for the borrower (no cash out).
3. The homebuyer wishes to obtain a home equity loan for the sole purpose of improving the premises for which the program had made the original Homebuying HERO Program loan.
4. The homebuyer wishes to refinance an existing mortgage to halt foreclosure proceedings or tax deed foreclosure proceedings by a lender.
5. The homebuyer wishes to obtain a loan to pay for medical emergencies not covered by insurance.

For any of the above circumstances, or combination of circumstances, the following terms must be met:

1. The new loan must not include debt consolidation or cash-out to the borrower.
2. The new loan must not be a Reverse Equity or Adjustable Rate Mortgage.
3. The total combined loan value (all mortgage debt, including the Homebuying HERO Program loan balance) must be less than 95% of the property value.



4. Any loan proceeds in excess of \$100 remaining available at loan closing must be applied as a principal-reduction payment to the new loan balance.
5. Lenders may include reasonable and customary closing costs in loan proceedings.

Reviewed by:

Christopher Cauley 11/19/24  
Christopher L. Cauley, MPA Date  
Economic & Community Development Director

Approved by:

Kelly Olivera 12/4/24  
Kelly Olivera, Date  
Assistance City Manager



## ATTACHMENT 1

### DOCUMENT CHECKLIST

- ☐ Copy of Picture ID (Unexpired copy of the Driver's License or State ID) (buyer only)
- ☐ Copy of Social Security Card (buyer only)
- ☐ Bank statements from previous three (3) months
- ☐ Credit Bureau Report
- ☐ Proof of rent for the prior twelve (12) months (verification of rent signed by landlord)
- ☐ Copies of pay stubs for previous two (2) months
- ☐ Past two years of Federal tax returns if W2 employee or if Self-Employed/1099 employee  
2 years of tax returns to include all schedules
- ☐ Social Security, Child Support & other non-wage earner income, etc. –Award Letter and 3 months' proof of receipt
- ☐ Verification of other sources of income (e.g. SSI, SSA, child support, alimony, retirement)
- ☐ Zero Income Affidavit (if household member is 18 years or older with no source of income)
- ☐ Lead-Based Paint Disclosure (if applicable)
- ☐ Offer to Purchase and Contract (fully executed with all addendums)
- ☐ Tax Administration Property Summary
- ☐ Uniform Residential Appraisal Report
- ☐ Certificate of Occupancy (new construction only)
- ☐ Uniform Relocation Act Voluntary Sales Disclosure Form (if applicable)
- ☐ (Pre)approval letter(s) from all funding sources
- ☐ Closing Disclosure (displaying all amounts being paid)
- ☐ Loan Estimate
- ☐ Initial Escrow Disclosure
- ☐ Mortgage Insurance Binder (Lender's Policy with following verbiage: City of Fayetteville, P.O. Drawer D, Fayetteville, NC 28302)
- ☐ Uniform Residential Loan Application
- ☐ FHA/VA Financing Addendum (if applicable)
- ☐ Certificate from HUD-approved 8-hour Homebuyer Workshop/Counseling Class
- ☐ W-9 (for Closing Attorney)
- ☐ Certification and Declaration (signed by homebuyer)

**\*NOTE: This list is not all inclusive and all documents may not be required for all Applicants. Other documents may be required upon request of City staff.\***

## ATTACHMENT 2

### HOMEBUYER SELECTION PLAN

#### General Qualifications and Requirements

The Purchaser:

- Must have completed a homebuyer education (and counseling if necessary) program and be certified by a HUD-approved homeownership counseling agency.
- Must be prequalified for a mortgage from a reputable lender.
- Household income cannot exceed 120% of the Area Median Income for the City of Fayetteville. (140% of City of Fayetteville employees)
- There is a five-year minimum primary residency restriction for the property assisted with Homebuying HERO Program funds. The maximum residency restriction is 10 years, based on amount of assistance received. If the property is sold or transferred, the amount due and payable to the City is calculated based on the recapture provisions described in the Mortgage Note. If the owner ceases to occupy the property as a permanent residence during the five-year residency restriction, the entire Down Payment Assistance loan amount is due to the City. A Mortgage Note will ensure the affordability period and primary residency requirement.