

**2406 MAYOR’S OR MAYOR’S ASSIGNEE’S OBLIGATION TO
MAINTAIN AFFORDABILITY**

2406.1 The Mayor or Mayor’s Assignee shall file a combined property report and affordability plan for the Housing Accommodation with the Agency within one hundred twenty (120) days after settlement and annually by December 31 of each year. The District may request additional relevant information to be included in the combined property report and affordability plan.

2406.2 The combined property report and affordability plan shall include, but not be limited to, the following:

- (a) The number of, number of bedrooms in, and size of each Rental Unit;
- (b) The names of each Household member occupying a Rental Unit;
- (c) The Monthly Rent for each Rental Unit;
- (d) The income and MFI Level of each Household occupying an Affordable Rental Unit;
- (e) Proof of compliance with the Rental Housing Act, including but not limited to proof of rental registration, a certificate of occupancy, and a basic business license;
- (f) Proof of insurance;
- (g) A description of any income restrictions to be imposed on new Tenants in the Housing Accommodation;
- (h) The proposed methodology to increase the number of Rent Restricted Units in the Housing Accommodation;
- (i) A list of vacant Rental Units;
- (j) A calculation of the percent of income each Household occupying a Rental Unit in the Housing Accommodation spends on Monthly Rent;
- (k) A notation indicating which Rental Units qualified as Affordable Rental Units under the Act; and
- (m) Such other information as may be required by the Agency.

2406.3 Upon written request by a District agency, an Owner, a Tenant, or a Household, the Director may waive any or all of the provisions of Subsections 2406.01 and 2406.02 of this chapter in the Agency’s sole and absolute discretion.

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2406.4 The Monthly Rent for an Existing Household shall not exceed the lesser of:

- (a) The Existing Household's current Monthly Rent on the date the Offer of Sale was provided to the Mayor; or
- (b) Thirty percent (30%) of the Existing Household's monthly income, as described in Subsections 2406.5 through 2406.7, on the date the Offer of Sale was provided to the Mayor.

In each case, the Monthly Rent shall be subject to Allowable Annual Increases.

2406.5 For purposes of Subsection 2406.4(b) of this chapter, the Mayor or Mayor's Assignee shall determine the income of each Existing Household in a manner consistent with the existing affordable housing programs encumbering the Housing Accommodation as administered by the local or federal governments, or if no affordable housing program exists, then consistent with 24 CFR § 5.609.

2406.6 An Existing Household may not be required to comply with income certification requirements unless doing so is an express obligation under its lease; accordingly:

- (a) If an Existing Household does not provide information regarding current income and tenancy within the Rental Unit, including but not limited to lease documents, tax returns, pay stubs, and other information as reasonably requested by the Mayor or the Mayor's Assignee within thirty (30) days of such request, the Existing Household's rent will be determined in accordance with Subsection 2406.4(a) of this chapter, subject to Allowable Annual Increases; or
- (b) In the event that the Existing Household's rent at the time of the Offer of Sale cannot be determined, the Existing Household's rent will be determined in accordance with the affordability plan approved by the Agency pursuant to Subsection 2406.9 of this chapter.

2406.7 For any Existing Household whose lease at the time of the Offer of Sale did not contain any obligation to comply with income certification requirements, any new lease provision so requiring shall not be considered grounds for eviction within the meaning of Section 501(b) of the Rental Housing Act (D.C. Official Code § 42-3505.01(b)) and shall not subject the Existing Household to eviction for any failure to comply.

2406.8 The Monthly Rent for Rent Restricted Units in a Housing Accommodation under Title IV-A of the Act shall not exceed the Maximum Rent for the applicable MFI Level in the Rent and Income Schedule. For purposes of this subsection, Monthly Rent does not include any payment under Section 8 of the United States Housing

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Act of 1937, approved September 1, 1937, or any comparable local or federal rental assistance program (with respect to such unit or occupants thereof).

2406.9

Unit Turnover

- (a) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the sixty percent (60%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the sixty percent (60%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;
- (b) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the thirty percent (30%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the thirty percent (30%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;
- (c) The Mayor or Mayor's Assignee shall ensure that vacancies in Rental Units shall be filled and maintained so that the division of Rent Restricted Units in the Housing Accommodation is as close as practicable to the following distribution:
 - (1) One-third shall have a Maximum Rent affordable for Households at the thirty percent (30%) MFI Level and such units shall be occupied by Households with incomes at or below the thirty percent (30%) MFI Level at the time of initial income certification;
 - (2) One-third shall have a Maximum Rent affordable for Households at the sixty percent (60%) MFI Level and such units shall be occupied by Households with incomes at or below the sixty percent (60%) MFI Level at the time of initial income certification; and
 - (3) One-third shall have a Maximum Rent affordable for Households at the eighty percent (80%) MFI Level and such units shall be occupied by Households with incomes at or below the eighty percent (80%) MFI Level at the time of initial income certification.
- (d) Income restrictions may be imposed upon the Rent Restricted Units by the Mayor, or an assignee of the Mayor provided that Existing Households shall be exempt from any income restrictions.

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- 2406.10 Any Rental Unit subject to a subsidy under Section 8 of the United States Housing Act of 1937 (42 USC § 1437f), or rent restrictions under the federal Low-Income Housing Tax Credit Program, or similar rent restrictions under any comparable local or federal rental assistance or tax credit program, shall be exempt from the requirements of Section 433(c) of the Act (D.C. Official Code § 42-3404.33(c)) and Sections 2406.8 through 2406.9 of this chapter so long as such subsidy remains in effect.
- 2406.11 An Existing Household may, by petition filed with the Rent Administrator, challenge or contest the determination of the Existing Household Monthly Rent or Household Income. The petition shall be filed, heard, and determined according to the procedures established pursuant to the Rental Housing Act and the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 17-76; D.C. Official Code §§ 2-1831.01 *et seq.*).
- 2406.12 The Mayor or the Mayor's Assignee shall take all practicable steps to increase the number of Rent Restricted Units in the Housing Accommodation in accordance with the affordability plan approved by the Agency.
- 2406.13 The restrictions on Monthly Rent and income restrictions, if any, shall be memorialized in a DOPA Covenant. The DOPA Covenant shall include a provision providing for the whole or partial release or extinguishment of the DOPA Covenant only upon the reasonable approval of the Director of the Agency, or if the Housing Accommodation is transferred following foreclosure or deed-in-lieu of foreclosure to a mortgagee in first position or a mortgage in first position is assigned to the Secretary of the United States Department of Housing and Urban Development.

SOURCE: Final Rulemaking published at 65 DCR 12627 (November 16, 2018).