

2011
CITY OF KETTERING
**DOWN PAYMENT
ASSISTANCE (DPA)**
PROGRAM GUIDELINES



SECTION I: OBJECTIVES OF PROGRAM

To increase the accessibility of homeownership for low- and moderate-income households

SECTION II: APPLICANT ELIGIBILITY

1. The applicant's total annual household income must be less than or equal to:
 - o 80% of the median income level for the Dayton, OH MSA, when purchasing a home in any Kettering neighborhood (citywide applicability), or
 - o 120% of the median income level for the Dayton, OH MSA, when purchasing a NSP assisted home from the City of Kettering or its NSP partners.

Items included in the calculation of household income and current income limits are attached and made a part of these guidelines. (Attachment A & B) Household income includes the earnings of all persons over the age of 18 who will be residing in the home.

2. Preference will be given to applicants who have not owned a home during the three (3) year period prior to the purchase. The exceptions to this rule will be considered (a) if an applicant is a displaced homemaker or a single parent with custody or joint custody of minor children, or (b) if the applicant is purchasing a home in an NSP target area,
3. Household assets, including but not limited to savings accounts, investments, other properties/collections, must not exceed \$100,000. Excluded from that asset limit are: the value of two cars or other vehicles and the value of household goods.

4. The applicant must live in the home as a primary residence for the term of the forgivable loan.
5. The assistance from the City can be used for down payment and/or for closing costs, **The use of City funding can only be used to make the housing unit affordable, therefore a gap in affordability must be present.** The Affordability Worksheet in attachment E will determine the gap.
6. Potential homebuyers must complete 8 hours of HUD approved homebuyer education Counseling.. The city can provide information on HUD approved counseling agencies, or you may find them on the website at:
<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=OH>

The cost for the program is approximately \$40.00 per household, but might differ depending on the course provider. Applicants are required to pay the class fee. At the first homebuyer's class, please present the enclosed City of Kettering Enrollment Form to your class instructor.

7. Potential homebuyers must be able to obtain a commitment from a bank, savings and loan association, credit union or other private lending institution for the funds required for a first mortgage to purchase the home. The first mortgage shall collect escrow funds and pay the property taxes and homeowner insurance premium.

SECTION III: PROPERTY ELIGIBILITY

Eligibility is restricted to existing and newly constructed single-family homes in the City of Kettering with an appraised value of less than \$206,150.

PROPERTY SELECTION CRITERIA AND RULES:

1. Prior to the closing, the buyer must notify the seller of the fair market value of the property. The City of Kettering will review the fair market value as established by the lender. The seller must also be informed that the property will not be acquired by eminent domain if negotiations fail to result in an amicable agreement. (Attachment D)
2. The house must have sufficient living space for the family wishing to purchase the home. The City will not support overcrowded housing conditions. For the purpose of this program, overcrowding is defined by the City of Kettering Property Maintenance Code. The code may be found online at: http://www.ketteringoh.org/newweb/departments/plan_dev/prop_maint.php
3. The property must be owner-occupied or vacant. Homes currently rented are not eligible (unless currently rented by buyer).
4. Prior to the occupancy of the property, the house must be free of defects that pose an immediate danger to health and safety. Identified hazards include, but are not limited to, defective furnaces, water heaters, wiring, windows, water leaks, missing hand rails, inoperable or absent smoke

detectors, deteriorating roofs, and unsanitary conditions. Also, if the property is located in a flood hazard area, flood insurance must be purchased prior to or at the loan closing.

5. The purchaser must agree to reside in the property, as their principal residence for the period of affordability as designated in the Down Payment Assistance Loan Agreement with the City. The city will use IRS guidance to determine principal residence/primary home.

In the event the owner ceases to own and occupy the home during the affordability period, the homeowner will be required to repay the loan in its entirety. In the event of foreclosure during the affordability period, the amount subject to recapture/repayment is based on the amount of net proceeds from the foreclosure sale available after the first mortgage has been satisfied.

6. All codes and standards must be met at time of occupancy except when project involves both an acquisition and rehabilitation loan from the city. (See Housing Rehabilitation Standards at: http://www.ketteringoh.org/newweb/departments/plan_dev/documents/HousingRehabilitationStandards.pdf) If the home is receiving both acquisition and rehabilitation assistance from the city, the property must be free from any defects that pose a danger to the health and safety of occupants before occupancy and not later than six months after property transfer. In addition, all written rehabilitation standards and local codes and ordinances must be met at project completion and within two years of property transfer to owner.

7. To finance the rehabilitation of a property, eligible applicants may qualify for a low interest loan from the City.

SECTION IV: ELIGIBLE ACTIVITIES

The City will provide a forgivable loan, not to exceed \$5,000.00, to eligible homebuyers for any combination of the following:

Down payment assistance Funds can be used as down payment in order to make the property affordable. If the Debt to Income (DTI) ratio is 26/36 prior to city participation, only closing cost assistance will be provided. If even at the maximum city participation DTI exceeds 30 on the front end, no assistance will be provided, as this project is not deemed feasible.

Closing cost assistance. Eligible closing costs include appraisal fee, credit report fee, recording fee, processing fee, title examination, origination fee and inspection fees. Eligible closing costs may not equal more than 3% of the loan amount.

Note: NSP eligible projects in NSP target areas will be considered for a forgivable loan of up to \$14,999, but no more than 50% of the lender required down payment. For NSP projects only, a principal buy-down may be considered on an as-needed basis to secure private financing.

SECTION V: APPLICATION PERIOD

Due to the interest in the program and the limited resources available, assistance will be offered on a first-come, first-serve basis, as funding is available.

SECTION VI: PROGRAM PROCEDURES

1. Potential homebuyers must attend an approved homebuyer education program.
2. Buyer completes Down Payment Assistance Program application to determine eligibility for *down payment/closing cost assistance* by providing proof of total household income and total household debt obligations. Income tax return from the previous year, three (3) months of consecutive bank statements, credit report and current pay stubs will be used as proof.
3. Buyer locates home they wish to purchase and signs a sales agreement contingent upon obtaining mortgage financing and inspection of property by City of Kettering.
4. Buyer goes to bank, savings and loan association, credit union, or other private lending institution to make application for first mortgage financing. The loan should not exceed 97% loan to value. The monthly payment (including principal, interest, property taxes and insurance) must not exceed 30% of annual gross income.
5. Financial institution reviews application to determine loan eligibility. The buyer contacts City to arrange inspection of property for identification of any immediate health and safety problems as defined in "Property Eligibility" (page 2, paragraph 4) as well as any additional code violations per City of Kettering Property Maintenance Code and Kettering Housing Rehabilitation Standards.
6. Buyer may be pre-qualified for assistance pending receipt of sales contract, mortgage loan application, appraisal of the property and the residential inspection of the home. Referral form is issued to financial institution for mortgage financing.
7. Inspector visits home and conducts inspection. Report is prepared identifying all immediate health and safety issues and code violations requiring repair.
8. All codes and standards must be met at time of occupancy except when project involves both an acquisition and rehabilitation loan from the city. If the home is receiving both acquisition and rehabilitation assistance from the city, the property must be free from any defects that pose a danger to the health and safety of occupants before occupancy and not later than six months after property transfer. In this case, all written rehabilitation standards and local codes and ordinances must be met at project completion and within two years of property transfer to owner.
9. City receives documentation from financial institution to determine buyer's final approval for assistance. Documentation includes Good Faith Estimate.
10. Financial institution approves loan and sets up loan closing. City provides down payment and/or closing cost assistance at loan closing for purchase of home. **THE CITY NEEDS TO BE NOTIFIED AT LEAST A WEEK IN ADVANCE OF CLOSING IN TIME TO PREPARE A CHECK AND INSPECT TO ENSURE THAT ALL HEALTH AND SAFETY VIOLATIONS HAVE BEEN CORRECTED.** At the closing, the buyer signs a note and mortgage for the amount of assistance provided and agrees to reside in the home for a designated number of years.

11. At the loan closing, the purchaser must have a Homeowner’s Insurance Policy for the property purchased. The insured amount must be no less than the value of the 1st mortgage plus the City provided forgivable loan.

SECTION VII: PROPERTY TRANSFERRED/REFINANCED

1. If the home is sold, title transferred or the applicants no longer occupy the home as a principal residence within the Affordability Period the entire loan amount will be due and payable to the City of Kettering. It should be noted that these must be continuous years from the mortgage date. In the event of foreclosure during the affordability period, the amount subject to recapture/repayment is based on the amount of net proceeds from the foreclosure sale available after the first mortgage has been satisfied.

City Down Payment Assistance	Affordability Period
<\$15,000	5 years
\$15,000-40,000	10 years
Over \$40,000	15 years

2. The City may subordinate its interest in the property in accordance with the City of Kettering's Housing Rehabilitation Program and Down Payment Assistance Program subordination policy. See Attachment C.

SECTION VIII: OTHER FINANCIAL ASSISTANCE

If the first time homebuyer is purchasing a “fixer upper” home in need of repairs and upgrades, then he/she may also apply for a housing rehabilitation loan. This will require at least one month of processing time. The City’s Housing Rehabilitation Construction Specialist will complete a whole house inspection and cost estimate for repairs or upgrades required and desired. That report will be used to obtain a Post-Rehabilitation Appraisal and loan approval through the underwriting process for the program.

The financial assistance would be a second mortgage not to exceed \$50,000. Closing costs would include the cost of that Post Rehabilitation Appraisal. The combined total of the principal from the 1st and 2nd mortgage must not exceed 95% of the property’s post rehabilitation appraisal.

**ATTACHMENT A
Down Payment Assistance Program
Income Guidelines
2011**

Federal legislation and regulations establish the rules affecting this Down Payment Assistance Program. Because the program is designed to benefit low- and moderate-income persons, eligible program participants must not exceed the U.S. Department of Housing and Urban Development (HUD) Income Limits. These income limits are established annually and typically published in the Federal Register in by mid-year. The City of Kettering uses the most up-to-date income limits and therefore will begin using the revised limits immediately when HUD posts them.

2011 INCOME GUIDELINES				
Household Size	50% Median (very low income)	80% Median (Moderate Income)	120% Median (NSP Income)	
1	\$21,850	\$34,950	\$ 52,400	
2	\$25,000	\$39,950	\$ 59,900	
3	\$28,100	\$44,950	\$ 67,400	
4	\$31,200	\$49,900	\$ 74,900	
5	\$33,700	\$53,900	\$ 80,900	
6	\$36,200	\$57,900	\$ 86,900	
7	\$38,700	\$61,900	\$ 92,900	
8	\$41,200	\$65,900	\$ 99,000	

Annual income is the total income from all sources, including income that anticipated to be received in the next 12-month period, of all persons over the age of 18 intending to reside in the home financed through the Down Payment Assistance Program.

Annual income includes:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or professional will be included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the Family.
3. Interest, dividends and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) of this section.
4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment.
5. Payments in lieu of earnings, such as unemployment, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions).
6. Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:
 - a. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities.
 - b. The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.
8. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family, spouse or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions).
9. Any earned income tax credit to the extent it exceeds income tax liability.

Income exclusions are:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payments for the care of foster children.
3. Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlements for personal or property losses (but see paragraph (5) of Income Inclusion).
4. Amounts received by the Family that are specifically for, or in reimbursement of, the cost of Medical Expenses for any Family member.
5. Income of a live-in aide.
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation and miscellaneous personal expenses of the student. Any amounts of such scholarships or payments to a veteran not used for the above purposes that are available for subsistence are to be included in income.
7. The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire.
8. Special one time grants of public funding such as:
 - a. Amounts received under training programs funded by HUD.
 - b. Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
 - c. Amounts received by a participant in other publicly-assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.
9. Temporary, non-reoccurring or sporadic income (including gifts).
10. Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following is a list of types of income that qualify for that exclusion.
 - a. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (43 U.S.C. 4636); Note: This conflicts with URA regulations but has not been changed in Part 813.
 - b. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)).
 - c. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.A.C. 5044(g), 5058).
 - d. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a)).
 - e. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259(e)).
 - f. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)).

- g. Payments received under programs funded in whole or in part under the Job Training Partnership Act (49 U.S.C. 1552(b)).
- h. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub.L. 94-540, 90 Stat. 2503-2504).
- i. The first 2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117).
- j. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs, that are made available to cover the costs of tuition fees, books, equipment, materials, supplies, transportation and miscellaneous personal expenses of a student at an educational institution (20 U.S.C. 1087UU).
- k. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

**CITY OF KETTERING
HOUSING REHABILITATION AND
DOWN PAYMENT ASSISTANCE PROGRAM
SUBORDINATION POLICY**

Subordination will be considered only in circumstances relating to the needs of the Borrower.

The borrower shall provide, in writing, the request for subordination at least two weeks (ten business days) before the scheduled closing. The request for subordination must provide the following information: current value of the home; current balance of the mortgage; current mortgage rate and reason for the request. Each subordination request must meet the following conditions:

1. The Borrower is refinancing a first mortgage at a lower interest rate.
2. The amount of the refinanced loan shall be for the amount equal to and not exceeding the outstanding balance of the loan being refinanced plus the following acceptable closing costs and fees:
 - A) Credit Reports - only the actual cost identified on the credit report(s) may be charged
 - B) Automated Underwriting Fees - The automated underwriting loan review fee cannot exceed the actual amount charged to the lender
 - C) Origination Fee -One percent (1%) of the original principal amount of the mortgage excluding financed mortgage insurance or guarantee fees
 - D) \$150 transfer fee
 - E) \$79 tax service fee
 - F) .25% adverse market fee (conventional loans only)
3. The Mortgagor is performing and complying with all the terms and conditions outlined in the subject Promissory Note and Mortgage, including but not limited to timely loan payments, maintaining the mortgage premises in good repair and in compliance with all governmental requirements.

If the City agrees to consider the requested subordination, then copies of the loan agreement, HUD-1 and associated loan-closing documents must be reviewed by the City of Kettering Planning and Development Department and the Law Department for final determination.

**CITY OF KETTERING
DOWN PAYMENT ASSISTANCE PROGRAM
STATEMENT OF UNDERSTANDING**

*This form must be transmitted from purchaser to seller
prior to the loan closing/transfer of title.
A copy must be provided to the City of Kettering for their file at the Closing.*

1. As the purchaser of the property situated at : _____,
it is acknowledged that gap financial assistance was secured from the City of Kettering. Even though the City of Kettering is involved, they will not be listed on the property deed, as an owner of record. Furthermore, the purchase of this property was not accomplished with any form of Eminent Domain.

2. The down payment assistance program is available for properties that are either (1) vacant, (2) owner-occupied, or (3) being purchased by residing tenant. It is hereby confirmed that no tenants have been relocated because of this purchase.

3. In reviewing comparable properties listed in the attached report, it has been determined that the fair market value for this property AS-IS would be: _____.

4. Considering the current economic market, the agreed upon purchase price for the property has been established as: _____.

By signing this Statement of Understanding, purchaser and buyer acknowledge that facts are true.

Purchaser:

Seller:

Date: _____

Date: _____

Witness:

Witness:

Date

Date

Down Payment Assistance Affordability Worksheet ATTACHMENT E

IF BEFORE City participation the DTI is at 26/36 then ONLY closing cost assistance will be provided
 IF even at the MAXIMUM of City participation, Front End DTI exceeds 30 the buyer is NOT eligible for assistance

BUYER NAME: _____

FRONT END RATIO	
a) Total amount of new house payment:	
<small>Add up the total mortgage payment (principal and interest, escrow deposits for taxes, hazard insurance, mortgage insurance premium, homeowners' dues, etc.)</small>	
b) Borrower's gross monthly household income:	
DTI Front end ratio (a / b):	

BACK END RATIO	
a) Total amount of new house payment:	
b) Total amount of monthly recurring debt	
<small>add up all recurring monthly revolving and installment debt (car loans, personal loans, student loans, credit cards, etc.).</small>	
c) Total amount of monthly debt (a+b)	
d) Borrower's gross monthly household income:	
DTI Back end (c / d):	

ELIGIBLE ON FRONT END FOR REVIEW
 ELIGIBLE ON BACK END FOR REVIEW

	LOW END	HIGH END
FE AMOUNT NEEDED		
BE AMOUNT NEEDED		
AFFORDABILITY ASSISTANCE NEEDED		
CLOSING COSTS	\$ -	\$ -
TOTAL DPA ASSISTANCE NEEDED		
MAX ALLOWABLE DPA	\$ -	\$ -

TOTAL DPA ASSISTANCE GRANTED:

*If HIGH END DPA assistance needed is less than DPA limit, then Buyer is eligible for the larger of the DPA assistance needed, up to DPA limit

*If HIGH END DPA assistance needed is more than DPA limit, this home is INELIGIBLE for assistance.