

Existing Policy on Non-Rent Fees for Subsidized Multifamily Housing Programs

This guidance provides a summary of existing policy regarding the fees that owners of HUD-subsidized multifamily properties are permitted and not permitted to charge tenants. None of the guidance set forth below is new or reflects a change in federal law, regulation, or policy. In addition to outlining the Office of Multifamily Housing Programs' existing policy regarding different types of fees and charges for its subsidized programs, the chart includes citations to applicable regulations and HUD-issued guidance that will provide owners and tenants with more detailed information. This guidance does not address applicable state or local laws, which may permit or prohibit non-rent fees.

Fee/Charge Type	Guidance	Guidance Location
PRE-TENANCY FEES		
Application/Membership Fees	<p>Owners must not require applicants to pay application fees or other costs associated with accepting and processing applications. These costs are considered project expenses.</p> <p>Owners must not require a donation, contribution, membership fee, application fee, or processing fee as a condition of admission.</p> <p>Cooperatives may require prospective members to pay application fees if such fees are permissible under state and local laws. The cooperative's board of directors must approve the application fee. While the fee must be reasonable in amount and consistently applied, cooperatives need not submit the fee for Field Office approval. The cooperative must treat the application fee as an earnest money deposit. The application fee is not intended to cover the administrative expenses the cooperative incurs in processing applications. If the applicant is accepted for membership, the cooperative must apply the application fee to the purchase of the membership (i.e., the membership fee). If the applicant is rejected by the cooperative, the cooperative must refund the full application fee.</p>	HB 4350.3 REV-1, 4-7E.2, 4-8D, 6-20

Charges at Initial Occupancy	Owners must not collect any money from tenants at initial occupancy other than rent and the maximum HUD-allowed security deposit, unless they receive HUD approval to do otherwise.	HB 4350.3 REV-1, 6-21
Pet Deposit	<p>An owner of housing specifically designed for occupancy by the elderly and persons with disabilities may require tenants to pay a refundable pet deposit. The pet deposit applies only to tenants who own or keep cats or dogs in their units.</p> <p>See Figure 6-8 of Handbook 4350.3 for the maximum amount of the pet deposit that may be charged by an owner on a per-unit basis.</p> <p>An owner may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet on the property, including (but not limited to) the cost of repairs and replacements to, and fumigation of, the unit and the cost of animal care facilities. Owners must return the unused portion of a pet deposit to the tenant within a reasonable time after the tenant moves from the property or no longer owns or keeps a pet in the unit.</p>	<p>24 CFR 5.318</p> <p>HB 4350.3 REV-1, 6-21, 6-24</p> <p>HB 4350.1 REV-1, Ch. 32, Sec. 5</p>
Screening Fees	<p>An owner must not charge applicants for costs associated with screening applicants, including screening for criminal history, or verifying income and eligibility. Hence, owners must not require applicants to pay credit report charges, charges for home visits, charges to obtain police reports, or other costs associated with the above functions. These costs are considered project expenses.</p> <p>Cooperatives are permitted to charge a reasonable credit check fee. This fee is intended to cover the cooperative's out-of-pocket cost; these fees are not refundable and need not be applied to the applicant's purchase costs.</p>	HB 4350.3 REV-1, 4-7E.2, 6-20

<p>Security Deposit</p>	<p>Owners may collect a security deposit at the time of initial lease execution. However, the owner must collect a refundable security deposit at the time of the initial lease execution for the following properties:</p> <ol style="list-style-type: none"> 1. Section 8 New Construction with an AHAP executed on or after November 5, 1979; 2. Section 8 Substantial Rehabilitation with an AHAP executed on or after February 20, 1980; 3. Section 8 State Agency with an AHAP executed on or after February 29, 1980; 4. Section 202/8; 5. Section 202 PAC; 6. Section 202 PRAC; and 7. Section 811 PRAC. <p>The owner may collect the security deposit on an installment basis.</p> <p>The amount of the security deposit established at move-in does not change when a tenant's rent changes. The amount of the security deposit to be collected is dependent upon:</p> <ol style="list-style-type: none"> 1. The type of housing program; 2. The date the AHAP or HAP contract for the unit was signed; and 3. The amount of the total tenant payment or tenant rent. <p>See Figure 6-7 of Handbook 4350.3 for the amount of the security deposit that the owner may collect for each program.</p> <p>When a tenant transfers to a new unit, an owner may:</p> <ol style="list-style-type: none"> 1. Transfer the security deposit; or 2. Charge a new deposit and refund the deposit for the old unit. 	<p>24 CFR 880.608, 881.601, 884.115, 886.116, 886.315, 891.435, 891.635, 891.775</p> <p>HB 4350.3 REV-1, Ch. 6, Sec. 2</p>
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TENANCY FEES

<p>Assistance Animals</p>	<p>An owner may not require an applicant or tenant to pay a fee or a security deposit as a condition of allowing the applicant or tenant to keep the assistance animal.</p> <p>However, if the individual’s assistance animal causes damage to the unit or the common areas of the dwelling, the owner may charge the individual for the cost of repairing the damage if the owner regularly charges tenants for any damage they cause to the premises.</p>	<p>24 CFR 5.303</p> <p>HB 4350.3 REV-1, 2-44E</p>
<p>Attorney/Legal Costs</p>	<p>Owners must not include a lease provision that the tenant agrees to pay all attorney and other legal costs if the owner brings legal action against the tenant, even if the tenant prevails in the action. However, a tenant, as a party to a lawsuit, may be obligated to pay attorney’s fees or other costs if the tenant loses the suit.</p> <p>Owners may accept payment of court filing, attorney, and sheriff fees from tenants who wish to avoid or settle an eviction suit provided it is permitted under state and local laws; and the fees appear reasonable and do not exceed the actual costs incurred.</p> <p>Cooperatives may collect legal and other out-of-pocket costs incurred in collecting delinquent carrying charges and in terminating a membership following a member’s default under the occupancy agreement. The occupancy agreement requires members to pay attorney fees even if the cooperative has not filed a suit. Any charges levied on a cooperative member must be consistent with state and local law and policies approved by the cooperative’s Board.</p>	<p>HB 4350.3 REV-1, 6-5C.6.h, 6-25E</p>

Bad Behavior	Owners may not charge tenants for bad behavior, such as foul language, noise, or failure to supervise children.	HB 4350.3 REV-1, 6-25D.2
Checks Returned for Insufficient Funds	<p>Owners may impose a fee on the second time, and each additional time thereafter, a check is not honored for payment. The owner may bill a tenant only for the amount the bank charges for processing the returned check.</p> <p>Field Offices or Contract Administrators may authorize an owner to impose additional charges, if such charges are consistent with local management practices and are permitted by state and local laws.</p> <p>Owners of Section 202/8, Section 202 PAC, Section 202 PRAC, and Section 811 PRAC projects may not charge fees for checks returned for insufficient funds.</p>	HB 4350.3 REV-1, 6-25B
Damages	<p>Whenever damage is caused by carelessness, misuse, or neglect on the part of the tenant, household member, or visitor, the tenant is obligated to reimburse the owner for the damages within 30 days after the tenant receives a bill from the owner.</p> <p>An owner may deduct accrued, unpaid damage charges from the tenant's security deposit at the time of move-out, if such a deduction is permitted under state and local laws. The owner's bill is limited to actual and reasonable costs incurred by the owner for repairing the damages.</p>	HB 4350.3 REV-1, 6-25C
Facilities and Services	<p>Owners may not charge tenants separately for equipment and services that are included in the rent.</p> <p>Owners may charge tenants for other services or facilities (e.g., cable TV or use of community space in the project) only if all of the conditions listed below are met:</p> <ol style="list-style-type: none"> 1. The services, facilities and charges have been included in Part C of the most recently approved Rent Schedule. 	HB 4350.1 REV-1, 7-42

	<ol style="list-style-type: none"> 2. A schedule of those charges has been posted or distributed to the tenants. 3. Use of those facilities or services is optional on the part of the tenant. 4. If not previously authorized the charges must be approved by HUD prior to implementation. <p>Owners may charge for parking only in unsubsidized projects where HUD previously approved it. The owner may charge for car heaters in both subsidized and unsubsidized projects in cold climates where parking spaces are so equipped.</p>	
Infestation Treatment	<p>An owner may not charge a tenant for the cost of extermination, unless the owner can demonstrate that the infestation was caused by carelessness or neglect on the part of the tenant.</p> <p>Owners' requests for tenants to pay the costs of infestation treatment must be in accordance with the provision for tenant payment of damages or noncompliance as required in the HUD Model Lease for Subsidized Programs.</p>	<p>Notice H 2012-5</p> <p>April 18, 2019 Memorandum: "Clarification to Housing Notice H 2012-5 Guidelines on Addressing Infestations in HUD-Insured and Assisted Multifamily Housing"</p>
Keys and Lockouts	<p>An owner may charge a tenant for responding to lock-out calls and providing extra keys.</p> <p>At the time of move-out, the owner may charge the tenant for unreturned keys.</p>	HB 4350.3 REV-1, 6-25D
Late Payment of Rent	<p>Owners may charge a late fee if the tenant has been given at least 5 calendar days as a grace period to pay the rent. The rent must be received by the fifth day, not postmarked by then. On the sixth day, the owner may charge a fee, not to exceed \$5 for the period of the first through fifth day that the rent is not paid. Additionally, the owner may charge a fee of \$1 per day for each additional day the rent remains unpaid for the month.</p>	HB 4350.3 REV-1, 6-23

	<p>Field Offices or Contract Administrators may approve a higher initial late fee if:</p> <ol style="list-style-type: none"> 1. It is permitted under state and local laws; 2. It is consistent with local management practices; and 3. The total late charge assessed for the month does not exceed \$30. <p>An owner may deduct accrued, unpaid late charges from the tenant's security deposit at the time of move-out, if such a deduction is permitted under state and local laws. An owner must not evict a tenant for failure to pay late charges.</p> <p>Owners of Section 202/8, Section 202 PAC, Section 202 PRAC and Section 811 PRAC projects may not charge fees for late payment of rent.</p> <p>Cooperatives may collect any late charges that are approved by the Board and that are consistent with the cooperative's organizational documents and state and local laws.</p>	
<p>Meals Fee</p>	<p>Owners of properties for the elderly or persons with disabilities for which HUD approved a mandatory meals program prior to April 1, 1987, may charge a HUD-approved meals fee. Such fees are paid by the tenants and are not rent.</p> <p>Income collected from such charges must be used solely to offset costs associated with purchasing, preparing, and serving meals.</p>	<p>HB 4350.3 REV-1, 6-22</p> <p>HB 4350.1 REV-1, Ch. 31</p>
<p>Meeting Space for Tenant Organizations</p>	<p>An owner may charge a reasonable fee, approved by HUD as may normally be imposed for the use of such facilities in accordance with procedures prescribed by HUD, for the use of meeting space.</p>	<p>24 CFR 245.120(c)</p> <p>Notice H 2014-12</p>

	<p>An Owner may elect to waive this fee and is not required to charge a HUD-approved fee. An Owner does not need HUD approval to waive this fee.</p>	
<p>Other Charges</p>	<p>Owners may require tenants to pay other charges if:</p> <ol style="list-style-type: none"> 1. HUD or Contract Administrator has approved the charges; and 2. The schedule of charges is either: <ol style="list-style-type: none"> a. Listed in the lease agreement; or b. Has been distributed to all tenants in accordance with the modification of the lease requirements and procedures listed in paragraph 6-12D of Handbook 4350.3. 	<p>HB 4350.3 REV-1, 6-25F</p>