

Existing Policy on Non-Rent Fees in Public Housing

This guidance provides a summary of existing policy regarding the fees that PHAs are permitted to charge tenants and the fees that they are prohibited from charging. None of the fees outlined below are new or reflect a change in federal public housing law, regulation, or policy. In addition to high level descriptions of the types of permitted and prohibited fees/charges, the charts also provide citations to the applicable federal statutes, regulations, and HUD issued guidance that provide more extensive details regarding these fees. This guidance does not address applicable state or local fees which may be permissible or applicable state or local law.

Fee/Charge Type	Is the Fee/Charge Permissible or Prohibited?	Guidance	Guidance Location
Application/Screening Fee	Prohibited	PHAs may not charge application fees or pass along to tenants or applicants any expenses associated with screening which includes fees for a criminal background check, credit check, or third-party income verification (note that an individual being added to an existing household is considered an applicant).	24 CFR 990.165 Notice PIH 2009-39 Public Housing Occupancy Guidebook, Eligibility Determination and Denial of Assistance, Section 7.1.1
Credit Report Fees	Prohibited	PHAs may not charge applicants fees to obtain their credit report. This also applies to any individual being added to an existing household.	Notice PIH 2009-39
Criminal Background Checks	Prohibited	PHAs may not charge fees to obtain criminal background checks. Such costs are considered project expenses and must not be charged to any public housing tenant.	Notice PIH 2009-39

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Verifying income and eligibility	Prohibited	PHAs may not charge fees to verify income and eligibility.	Notice PIH 2009-39
Assistance animal fees/deposits	Prohibited	A PHA may not charge a pet deposit or fee for an assistance animal to public housing tenants.	24 C.F.R. § 5.303 Public Housing Occupancy Guidebook, Lease Requirements, Section 3.3.4 FHEO Notice 2020-01 (Notice on Assistance Animals)
Pet Fees and Deposits	Permissible	<p>General occupancy developments: PHAs may require a nonrefundable nominal fee, a refundable pet deposit, or both.</p> <p>Elderly/disabled developments: PHAs may require a refundable pet deposit which may be accumulated gradually. The maximum amount a PHA can charge for a pet deposit, on a per unit basis, must not exceed the higher of the Total Tenant Payment, or such reasonable fixed amount as the PHA may require or an amount periodically fixed by HUD through notice. PHAs may only use the pet deposit to pay reasonable expenses directly attributable to the pet's presence on the property. Such</p>	24 CFR § 5.318 24 CFR § 960.707 Public Housing Occupancy Guidebook, Pet Ownership 3.3.1, 3.3.2

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		<p>expenses would include, but not be limited to, the cost of repairs and replacement to the unit, fumigation of the unit, and the cost of animal care facilities.</p> <p>PHAs must return the unused portion of a pet deposit within a reasonable time after the tenant moves or no longer has the pet in the unit.</p> <p><i>These requirements apply to both developments designated for occupancy by the elderly or persons with disabilities at their inception and those in which the PHA gives preference in tenant selection for all units in the development with HUD approval.</i></p>	
Security Deposit	Permissible	<p>PHAs may request a security deposit, but the deposit cannot exceed one month's rent, or a reasonable fixed amount set by the PHA. If the PHA requires a security deposit, it must be listed in the lease.</p> <p>PHAs may enact policies to allow tenants to gradually accumulate security deposits. Subject to applicable law, the interest earned</p>	<p>24 CFR § 966.4(b)(5)</p> <p>Public Housing Occupancy Guidebook, Lease Requirements, Section 3.3.3</p>

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		<p>on security deposits must be returned to tenants when they vacate the unit or, if there is money owed by the tenant to the PHA, it may be used for tenant services or activities.</p>	
Attorney/Legal Costs	<p>Prohibited (the charge must be court ordered)</p>	<p>HUD prohibits clauses in the lease which require the tenant to pay attorney's fees or other legal costs when a PHA takes action against a tenant even if the tenant prevails in court. However, a tenant may be obligated to reimburse the PHA for attorney fees or other costs by court order.</p>	<p>24 CFR § 966.6(h) Public Housing Occupancy Guidebook, Lease Requirements, Section 14</p>
Returned Checks	<p>Permissible</p>	<p>PHAs may charge fees when checks are returned, e.g., checks returned for insufficient funds. The amount of the fee must be stated in the PHA's ACOP. All returned check fees are not considered rent because that would result in the family rent payment exceeding the income-based percentage allowed by statute.</p> <p>NOTE: A returned check could lead to additional penalties for late payment of rent, as stated in the lease.</p>	<p>24 CFR § 966.4(b) 24 CFR § 966.5 Public Housing Occupancy Guidebook, Lease Requirements, Section 3.3.4.1</p>
Damages and Repairs	<p>Permissible</p>	<p>PHAs may impose reasonable charges (other than for normal</p>	<p>24 CFR § 966.4(b)(2), (f)(10)</p>

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		<p>wear and tear) for the repair of damage to the dwelling unit, project buildings, facilities, or common areas caused by the tenant, household members, or guests.</p> <p>Such charges must not be classified as rent because they would result in the family rent payment exceeding the income-based percentage allowed by statute.</p>	<p>Public Housing Occupancy Guidebook, Lease Requirements, Section 3.3.4.1</p>
Keys and Locks	Permissible	<p>Lock replacements are typically listed on a schedule of charges in addition to rent. At the end of the lease agreement, the PHA may charge the tenant an amount for unreturned keys.</p> <p>Such charges must not be classified as rent because they would result in the family rent payment exceeding the income-based percentage allowed by statute.</p>	<p>24 CFR § 966.4(b)(2)</p> <p>Public Housing Occupancy Guidebook, Lease Requirements Chapter, Section 3.3.4 and 3.3.4.1</p>
Inspections	Prohibited	<p>The PHA may not charge a family for an inspection.</p> <p>The lease must provide that the PHA will inspect a unit prior to move-in and at move-out. The lease must also set forth circumstances under which a PHA</p>	<p>24 CFR 5.705(d)</p> <p>24 CFR §§ 966.4(i) and (j)(1)</p>

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		<p>may enter a tenant’s unit such as for routine inspection during the tenancy.</p>	
Late Payment of Rent	Permissible	<p>PHAs may impose late fees if tenants fail to pay their rent on time. PHAs may not write their leases in such a way that if delinquent non-rent charges (such as charges for late fees, charges for repairs due to tenant-caused damage, or other fees) are not paid on time, the fees are deemed delinquent rent.</p> <p>If non-rent charges are classified as delinquent rent, they cannot legally be collected because they would result in the family rent payment exceeding the income-based percentage allowed by statute.</p>	<p>24 CFR § 966.4(b)(3)</p> <p>Public Housing Occupancy Guidebook, Lease Requirements Chapter, Section 3.3.4 and 3.3.4.1</p>
Utility fees	Permissible	<p>The lease must state what utilities, services, and equipment are to be supplied by the PHA without additional cost and which utilities and appliances are to be paid for by the tenant. The lease also must provide for charges to the tenant for consumption of excess utilities.</p>	<p>24 CFR § 966.4(a)(1)(iv), (b)(2)</p> <p>24 CFR § 965.506</p> <p>Public Housing Occupancy Guidebook, Lease Requirements, Section 3.3.2</p> <p>Public Housing Occupancy Guidebook, Utilities</p>

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Auxiliary Aids and Services	Prohibited	PHAs may not charge applicants or participants for appropriate auxiliary aids or services, including ensuring that information is provided in appropriate accessible formats, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters.	24 CFR § 8.33 24 CFR § 8.6(a)(1) 24 CFR § 100.65
Community Room for Tenant Organizations	Prohibited	If requested, a PHA should provide a duly recognized resident council office space and meeting facilities, free of charge, preferably within the development it represents.	24 CFR § 964.18(a)(5)