

**NASSAU COUNTY
OFFICE OF COMMUNITY DEVELOPMENT**

HOME Investment Partnerships Program

General Program Guide



This Program Guide provides a general overview of the structure of the Nassau County HOME Program, as administered by the Nassau County Office of Community Development ("NC OCD"). It is designed to acquaint prospective applicants with the basic features and requirements of the HOME Program to assist them in applying for Program funds. It is thus primarily an informational tool and does not attempt to provide a complete and exhaustive statement of all rules and requirements of the HOME Program. The application directions should be reviewed thoroughly for more details concerning additional criteria for specific project/program types.

The HOME Program is governed by the Federal regulations (the "Regulations") published at 24 CFR Part 92 "HOME Investment Partnerships Program". Prospective applicants should consult the Regulations and the Rules whenever this Guide does not provide sufficient information. In the event of any inconsistency between this Guide and the Regulations and the Rules, the Regulations and the Rules will control.

If you require additional information about the HOME Program or a copy of the HOME Program regulations, please contact the Nassau County Office of Community Development at (516) 571-0200. This program guide includes a summary of the HOME Program regulations but is not to be considered the actual HOME Program regulations themselves.

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	ELIGIBLE APPLICANTS	3
III.	APPLICATION PROCEDURE	3
A.	Review Process	4
B.	Underwriting Criteria	4
C.	Reservation/Commitment of Funds	7
IV.	TYPES OF HOME PROGRAM ACTIVITIES	8
A.	Rental	8
B.	Owner-Occupied Housing	10
V.	NEW CONSTRUCTION	11
VI.	PROHIBITED ACTIVITIES	11
VII.	OTHER REQUIREMENTS	11
A.	Property Standards	11
B.	Maximum Property Value	12
C.	Displacement, Relocation and Acquisition	13
D.	Prohibited Lease Terms & Termination Prohibitions	13
E.	One-For-One Replacement	14
F.	Other Requirements Applicable to the HOME Program	15
VIII.	RECORD KEEPING	17
IX.	COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS	18
A.	Funding	18
B.	Definition	18
C.	CHDO Eligible Activities	20
D.	Location of Projects	20
	ATTACHMENT A – Nassau County HOME ~ High Priority Projects	21
	ATTACHMENT B – HOME-Assisted Project Income Limits	22
	ATTACHMENT C – HOME-Assisted Rental Housing Rent Limits	23
	ATTACHMENT D – Maximum Property Value	23
	ATTACHMENT E – HOME-Assisted Rental Housing Utility Allowances	25

I. INTRODUCTION

The HOME Program was created under Title II (the HOME Investment Partnerships Act) of the National Affordable Housing Act of 1990. The general purposes of HOME include:

- To expand the supply of decent and affordable housing, particularly rental housing, for low and very low-income persons.
- To strengthen the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing.
- To extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The HOME Program is not a categorical housing program requiring a specific housing activity. Instead, the HOME Program provides states and local government's flexibility to decide what kind of housing assistance, or mix of housing assistance, is most appropriate to meet their housing needs.

Part of the purpose of the Program is to encourage state and local governments to use HOME funds efficiently and to encourage partnerships between public and private entities. Housing initiatives, which leverage HOME funds with other funds, are strongly encouraged and will be given priority.

II. ELIGIBLE APPLICANTS

Nassau County Office of Community Development will accept applications from non-profit and for-profit entities, units of local government, housing authorities, and public agencies. Consult the application material for each HOME Program activity.

III. APPLICATION PROCEDURE

Beginning in February 2019, Nassau County OCD adopted an on-line application process. Paper applications will no longer be accepted. A link to the on-line HOME Funding Application can be found at:

<https://www.nassaucountyny.gov/1533/HOME-Investment-Partnerships-Program>

Applications submitted by the posted annual deadline will be reviewed for inclusion in the upcoming Annual Action Plan. If funding remains after the completion and submission of the Annual Action Plan to HUD the application portal may be re-opened for rolling periods until the funding is exhausted.

- ★ To receive emailed notification of HOME Program announcements from NC OCD, please send an email with your contact information to: KCrean@nassaucountyny.gov

A. Review Process

When a Funding Application is received by the Nassau County OCD, the staff reviews the request to determine its feasibility. Feasibility will be determined in accordance with the HOME regulations and Nassau County OCD's review and ranking criteria and policies. Upon receipt of a complete application, the Nassau County OCD staff will notify the sponsor of the time and date when its proposal will be presented to the Grants Committee. The Review Committee will meet on an as needed basis to review pending applications.

NC OCD staff will bring all complete applications to its Grants Committee for consideration. Upon approval by the NC OCD, a Conditional Commitment Letter will be sent to the applicant. The Conditional Commitment Letter details the terms and conditions of the proposed project as approved by the Committee. The primary condition of this approval will be the COMMITMENT of all other funding sources. A secondary condition is a satisfactory environmental review. Nassau County may not issue a final commitment of funds, and a project may not begin, until the environmental review has been completed and a release of funds (if necessary) has been issued by HUD.

Once all other funding has been secured, and other conditions listed in the Conditional Commitment letter have been satisfied, an approval commitment letter will be issued. Upon receipt of a signed HOME Funding Agreement and other required documents, the Agreement will be routed for final County approval and execution. A closing can then take place when all legal documents between the sponsor and Nassau County OCD will be executed. The legal documents that pertain to HOME projects include some or all of the following: HOME Funding Agreement, Mortgage, Promissory Note, Restrictive Covenant, and a Disclosure Statement. Draft Copies of these documents are available upon request.

No funds may be disbursed until after the closing takes place. All disbursements will be subject to a project disbursement schedule to be determined on a project specific basis.

B. Underwriting Criteria

In evaluating applications for funding, Nassau County Office of Community Development will underwrite each project to ensure that the project is financially sustainable over its affordability period. The underwriting review evaluates cost reasonableness, market demand, developer capacity, and the commitment of other funding sources. NC OCD will evaluate proposals in accordance with the adopted Underwriting Policies and Procedures which include the following:

1. Program Type: The extent to which the application addresses the priorities for housing as established in Nassau County's Consolidated Plan and the approved use of funds as outlined in this Program Guide will be considered in reviewing proposals..
2. Ability and Preparedness of Applicant and Project or Program:
 - a. **Applicant's capacity** — Ability of the sponsor to implement the housing proposal. NC OCD will look at the experience and success of the development team, including the past performance of the applicant in completing housing activities in addition to the financial status of the organization as demonstrated by financial statements. Refer to the application for specific submission requirements regarding the experience of the development team.

- e. **Collateral and mortgage position** — NC OCD’s collateral and mortgage position must be clearly identified in the application. NC OCD reserves the right to deny the award of funding if it deems collateral or mortgage position to be unsatisfactory.
 - f. **Other financing considerations** — in reviewing funding proposals, NC OCD will consider the amount of HOME funds requested, the terms of the HOME financing and other financing sources, the secured position of the HOME funds, the equity contribution of the Applicant, and the amount and appropriateness of non-construction costs.
 - g. **Terms of Loans** — All rental loans will bear at least a provision for “interest only” payment requirement. The expected interest rate on HOME loans shall be 2%, though Nassau County reserves the right to adjust the interest rate.
 - h. Certain loans shall be structured as self-amortizing loans, either from the outset or after an interest only period, should the development demonstrate sufficient income stream to support principal and interest payments
5. Locational Factors include the following elements:
- a. **High Opportunity Areas** — Projects that will result in the development of affordable housing units, particularly those that involve the new construction of non-age-restricted rental housing in high opportunity areas (HOAs), will be given priority for HOME funding, provided the project is eligible, fundable and is otherwise ready to proceed. For purposes of this priority, HOAs will be defined as: “communities in Nassau County, including but not limited to communities in the Nassau County Urban Consortium, with the following characteristics (1) very low poverty rates; (2) very low unemployment rates; (3) high levels of completed college among adults; (4) low African American and Latino population; (5) high performing public schools; (6) low crime rates; and (7) access to public transportation and employment”.
 - b. **Transit Oriented Developments** — Due to the many benefits that housing in close proximity to established downtowns and public transit can generate, applications involving the production and preservation of such units will also be accorded preference in funding decisions. To be afforded preference, such projects are expected to be well incorporated into the neighborhood and be designed to encourage walking and cycling within the community and reduce tenant dependence on automobile usage.
 - c. **Community support of the proposal** — Sponsors are expected to provide at least *two* letters of support for the development. One letter should come from the mayor or town supervisor in which the development is located.
 - d. **Documented market demand** — The HOME funding application should substantiate the market demand for the proposed housing in the community. Applications should include the results of any site and market studies conducted and should substantiate consistency with the Consolidated Plan (a copy of the plan is available for public viewing at the NC OCD office and on NC OCD’s website).

6. Physical Characteristics of the housing units include the following elements:
 - a. **Accessibility/Adaptability** — adherence to applicable requirements for accessibility or adaptability of units for physically disabled individuals.
 - b. **Absence of environmental hazards** — Projects that are free from actual or potential environmental hazards will be favored.
7. Organization of the Project Sponsor:

Nonprofit developers and housing organizations are encouraged to participate in the HOME Program. Community Housing Development Organizations ("CHDOs") proposing to undertake activities eligible under the CHDO set-aside will be given a priority. Please review the CHDO section of this program guide for more details. To qualify as a CHDO, a nonprofit must have paid staff whose experience qualifies them to undertake CHDO set-aside activities.

The County HOME Program Committee will make the final determination as to the funding of each proposal.

C. **Reservation/Commitment of Funds**

1. Proposed HOME Award

After all identified issues with a proposed project have been resolved to the satisfaction of NC OCD, and the project is deemed eligible and fundable, the proposal will be reviewed by the NC OCD HOME Committee. The Committee will review the proposal against the County's priorities (see Attachment D) and assign it a priority level. Projects that rank high enough to be funded will be issued an award letter. The letter proposes the amount and terms of the County's HOME award. Upon acceptance of the proposed terms by the applicant, NC OCD will issue a HOME Funding Agreement.

2. Commitment Fee & Administrative Service Charge

Funding contracts are generally subject to a Nassau County Administrative Service Charge of \$533 and a HOME Commitment Fee equal to 2% of the amount of the HOME award. The Administrative Service Charge is to offset the cost of processing the contract. The Commitment Fee is to offset the cost of conducting project related costs such as environmental reviews and on-going performance monitoring to ensure the long-term affordability of each project.

Two checks, covering the Commitment Fee and Administrative Service Charge must accompany the return of a signed HOME Funding Agreement. No Agreement will be routed for final County approval without the required payments.

3. Final Commitment of HOME Funds

The commitment of HOME funds shall not be considered official, for purposes of complying with HUD requirements, until the HOME Funding Agreement is signed by the Nassau County Executive or his designee and the document is affixed with the County seal.

IV. TYPES OF HOME PROGRAM ACTIVITIES

Uses of HOME Funds - HOME funds may be used for acquisition, rehabilitation, and new construction of single or multi-family units. Project costs eligible for HOME funding include the following:

1. development hard costs,
2. refinancing costs,
3. acquisition costs,
4. related soft costs,
5. relocation costs, and

A. Rental

The HOME-assisted units in a rental housing project must be occupied only by households that are, at a minimum, eligible as either low- or very low-income families. HOME-assisted housing units meet additional requirements to qualify as affordable housing. HOME-assisted rental units must be occupied by income-eligible households within six (6) months of project completion.

1. Rent Limitation. HUD provides maximum HOME rent limits that apply to the HOME-assisted units in funded projects. Rent limits are revised and issued annually by HUD. The maximum HOME rents are the lesser of:

- a. The fair market rent of existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- b. A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as described by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions (see Attachments A&B)

2. Additional Rent Limitations. In rental projects with five or more HOME-assisted rental units, twenty (20%) percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:

- a. The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits, which include average occupancy per unit and adjusted income assumptions. However, if the rent determination under the paragraph is higher than the applicable rent under (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a).

- b. The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e. tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.
- c. **Initial rent schedule and utility allowances** – It is the responsibility of each participating jurisdiction under the HOME Program, in this case, Nassau County, to establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction must review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.
- d. **Nondiscrimination against rental assistance subsidy holders** – The owner cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR Part 982 - Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.
- e. **Periods of Affordability** – The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in Table 1 (below), beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.
- f. **Additional Requirements** – Information regarding all other HOME Program Requirements, including subsequent rents during the affordability period; adjustment of HOME rent limits for a particular project; tenant income limits; treatment of over-income tenants during the affordability period; and the applicability of fixed and floating HOME units in a funded project, can be found in the regulations themselves at 24CFR Part 92 accessible at: <https://www.hudexchange.info/programs/home/home-final-rule>

TABLE 1 ~ Applicable Affordability Requirements ~ RENTAL HOUSING		
Type of Activity	Average HOME Funds Per Unit	Affordability Term
Rehabilitation	Under \$15,000	5 years
Rehabilitation	\$15,000 - \$40,000	10 years
Rehabilitation	Over \$40,000	15 years
New Construction	Any Amount	20 years

B. Owner-Occupied Housing

HOME funds may be used for acquisition, rehabilitation and new construction of owner-occupied housing units. All HOME funds used for owner-occupied housing must benefit existing homeowners or new homebuyers whose household incomes are below 80% of the area median income. In addition:

- The assisted housing must be the owner's principal residence;
- For homeowner rehabilitation projects, the appraised value of the property after rehabilitation must be less than HUD's Section 203(b) mortgage limit for the type of single-family housing for the area;
- If the house is sold within the recapture period HOME funds will be paid back to the NC OCD;
 - A homebuyer unit must have a ratified sales contract within nine months of construction completion.
 - The recapture period is related to the amount of the HOME homebuyer subsidy or rehabilitation assistance on a per-unit basis.
 - See Table 2 (below) for the Affordability Period pertaining to owner-occupied housing.

TABLE 2 ~ Applicable Affordability Requirements ~ HOMEOWNER HOUSING	
Homeownership Assistance HOME Amount Per-Unit	Minimum Period of Affordability in Years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

V. NEW CONSTRUCTION

New construction projects are allowable. Rental new construction projects must meet HUD's Site and Neighborhood Standards in order to be eligible for funding consideration.

NC OCD will only consider new construction projects through the HOME Program if other public or private sources of funds are part of the submitted application. HOME funds cannot be the only source of financing. There must be a clearly documented need for new construction in the area.

VI. PROHIBITED ACTIVITIES

Activities **prohibited** under the HOME Program include:

- Public housing modernization, maintenance and operation, or new construction;
- Tenant subsidies for certain special purposes mandated under Section 8;
- Providing nonfederal matching funds for any other federal programs;
- Annual Contributions Contracts;
- Activities under the Low-Income Housing Preservation Acts of 1987 and 1990;
- Emergency and temporary housing;
- Funding operating deficit reserves or replacement reserves (Note: for new construction or substantial rehabilitation projects, the cost of funding an initial operating deficit reserve to meet any shortfall in project income during rent-up, which will be used to pay: operating expenses, replacement reserve payments, and debt service, may be an eligible expense in some circumstances);
- Providing assistance to properties receiving Rental Rehabilitation Program funds since the requirements of these programs are incompatible;
- Projects previously assisted with HOME funds that are still within the HOME affordability period; and
- Emergency repairs, if property is not brought up to code standards.

VII. OTHER REQUIREMENTS

A. Property Standards

1. Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion, except as provided in paragraph (b) of this section. The participating jurisdiction must have written standards for rehabilitation that ensure that HOME-assisted housing is decent, safe, and sanitary. In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable: one of three model codes (Uniform Building Code (ICBO), National Building Code (BOCA), Standard Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926. To avoid duplicative inspections when FHA financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building

Officials. Plans and Specifications must be submitted to NC OCD so that Model Energy Code compliance can be certified. Other building standards must be documented to NC OCD by a letter from a licensed, qualified architect upon construction completion.

- a. All other HOME-assisted housing must meet all applicable state and local housing quality standards and code requirements, and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401
 - b. The housing must meet the accessibility requirements in the regulations referenced in 24 CFR 5.105(a) which implement the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.
2. The following requirements apply to housing for homeownership that is to be rehabilitated after transfer of the ownership interest:
- a. Before the transfer of the homeownership interest, the participating jurisdiction must:
 - (i) Inspect the housing for any defects that pose a danger to health; and
 - (ii) Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards met.
 - b. The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer.
 - c. The housing must meet the property standards in paragraph (a)(1) of this section not later than 2 years after transfer of the ownership interest.
3. An owner of rental housing assisted with HOME funds must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

B. Maximum Property Value

Section 215(b) of National Affordable Housing Act (NAHA) requires that the initial purchase price or after-rehabilitation value of homeownership units assisted with HOME funds not exceed 95 percent of the area median purchase price for single family housing, as determined by HUD. In Section 92.254(a)(2)(iii) of the Final Rule published on July 24, 2013, HUD established new homeownership value limits for HOME Participating Jurisdictions (PJs). This new Rule was effective August 23, 2013.

The new HOME homeownership value limits for newly constructed HOME units is 95 percent of the median purchase price for the area based on Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing and existing housing in standard condition. The current applicable Nassau County maximum amount is noted in Attachment D – Maximum Property Value.

C. Displacement, Relocation and Acquisition

Potential applicants must carefully consider how their proposal may be impacted by the Uniform Relocation Act ("URA") before applying for HOME funds or obtaining site control of a given property. In all cases in which a proposed development site is either partially or fully occupied, an Existing Tenant Profile form must be completed and submitted concurrently with the application. Failure to submit this information with the application may result in the proposal being determined ineligible. The effective date for relocation assistance will be the earlier of: the date of application for HOME funds, or the date the sponsor obtains site control. If not taken into account, relocation expenses could render an otherwise viable project infeasible.

Relocation benefits are triggered under the URA when a resident is displaced permanently or temporarily. Some examples of situations, which would be considered displacement, are:

- Involuntary Moves. If a tenant must move in response to a notice to vacate premises because of impending acquisition and rehabilitation, or demolition;
- Non-Renewal of Lease. If a move results from the owner's refusal to renew an expiring lease;
- Failure to Inform Tenant in Timely Manner of the impact of the project on him/her; and
- Economic Displacement caused by the changing rental structure of the proposed project.

Please note, this is not an exhaustive list of displacement situations.

Residential and business tenants of developments assisted with HOME funds who are required to move temporarily must be provided reimbursement for relocation to suitable, decent, safe and sanitary housing and given advance written notice of the date and duration of temporary relocation. Such temporarily relocated residents must be provided a reasonable opportunity to lease and occupy a suitable and affordable unit in the rehabilitated building upon completion of the project. URA requirements may be applicable in many instances when HOME funds are used. Participants must comply with NC OCD procedures and federal regulations regarding displacement and relocation of households affected by projects using HOME funds.

If any of the units in the proposed project site are occupied, or if you suspect for any reason that your project may be subject to the URA, **STOP AND CONTACT NASSAU COUNTY OFFICE OF COMMUNITY DEVELOPMENT TO LEARN ABOUT RELOCATION BEFORE PROCEEDING**. If NC OCD discovers there are relocation issues after the submission of an application, the NC OCD reserves the right to disqualify the application and withdraw their funding commitment.

(For details see: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (49 CFR Part 24), and the Fair Housing Act)

D. Prohibited Lease Terms & Termination Prohibitions

The HOME Program regulations require a written lease between the tenant and owner of rental housing assisted with HOME funds. The Program regulations also include specific prohibited lease terms and other tenant protections, covered under the section entitled "Tenant protections and

selection”, found at 24 CFR 92.253. These are:

(b) ***Prohibited lease terms.*** The lease may not contain any of the following provisions:

- (1) **Agreement to be sued.** Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- (2) **Treatment of property.** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
- (3) **Excusing owner from responsibility.** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- (4) **Waiver of notice.** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- (5) **Waiver of legal proceedings.** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- (6) **Waiver of a jury trial.** Agreement by the tenant to waive any right to a trial by jury;
- (7) **Waiver of right to appeal court decision.** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
- (8) **Tenant chargeable with cost of legal actions regardless of outcome.** Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
- (9) **Mandatory supportive services.** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

(c) ***Termination of tenancy.*** An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds, except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

E. One-For-One Replacement

NC OCD will require all sponsors to replace all occupied and vacant occupiable low-and very low-income dwelling units demolished or converted to a use other than low and very low-income housing as a direct result of activities assisted with HOME funds. For example, a development, which currently contains 50 low-income units and will be converted to fewer than 50 low-income units, would be subject to this one-for-one replacement rule. All replacement housing must be provided by

the sponsor within three years of the commencement of demolition or rehabilitation relating to the proposed project. **CONTACT NASSAU COUNTY OFFICE OF COMMUNITY DEVELOPMENT TO LEARN ABOUT ONE FOR ONE REPLACEMENT BEFORE PROCEEDING.**

F. Other Requirements Applicable to the HOME Program

Projects, which are funded with HOME funds, are subject to the following requirements in the applicable federal regulations:

1. Equal Opportunity and Fair Housing

No person will be denied the benefits of, or be subjected to discrimination under any program or activity funded by HOME on the grounds of race, color, national origin, religion, sex, age, family status, handicap, or source of income.

Opportunities for training and employment related to any project assisted with HOME funds should be given to low income persons in the local area, to the greatest extent possible.

Contracts for work performed in connection with HOME projects should be awarded to businesses located in the same metropolitan area as the project, to the greatest extent possible.

Contracts for the procurement of property and services awarded by recipients and subrecipients shall be awarded to minority business enterprises and women business enterprises to the greatest extent possible.

For detailed requirements see:

- The Fair Housing Act and implementing regulations at 24 CFR part 100,
- Executive Order 11063 as amended-Equal Opportunity in Housing and implementing regulations at 24 CFR part 07,
- Title VI of the Civil Rights Act of 1964 and implementing regulations at 24 CFR part 1,
- the Age Discrimination Act and implementing regulations at 24 CFR part 145,
- Rehabilitation Act and implementing regulations at 24 CFR part 8,
- Executive Order 11246-Equal Employment Opportunity and implementing regulations at 41 CFR Chapter 60.
- Section 3 of the Housing and Urban Development Act of 1968,
- Executive Order 11625-Minority Business Enterprise, and
- Executive Order 12138-Women Business Enterprise

2. Affirmative Marketing

Participants must comply with affirmative marketing procedures and requirements for multifamily projects with 5 or more HOME-assisted housing units. NC OCD will evaluate proposals involving single-family projects with 5 or more HOME-assisted units to determine whether affirmative marketing efforts are appropriate. Such efforts include procedures to be used by owners to inform and solicit applications from persons in the housing market area not likely to apply for housing without special outreach. An Affirmative Marketing Plan must be submitted for approval by NC OCD before any tenant signs a lease. (Part of this rental

housing application packet.) Applicants are encouraged to utilize form HUD 935.2A or form HUD-935.2B Affirmative Fair Housing Marketing plan (AFHMP) for Multifamily and Single Family Housing respectively for this purpose. Continuing compliance with the Affirmative Marketing Plan will be monitored by NC OCD during the life of the affordability period. Sample plans for both single- and multi-family projects are posted on OCD's website.

3. Tenant Selection and Participant Selection

HOME-assisted rental projects of any size must submit a copy of the project's tenant selection procedures and requirements for NC OCD review and approval.

NC OHCD will evaluate proposals involving homebuyer, and single-family owner-occupied rehabilitation programs to determine when a formal affirmative marketing plan and participant selection procedures and requirements are necessary. (Part of this rental housing application packet)

4. Environmental Review

Participants must comply with HUD's policies regarding the responsibility of conducting environmental reviews on proposed development sites. (Site and neighborhood standards apply to new construction rental housing only). **An environmental review must be completed before a Notice to Proceed will be issued from NC OCD.**

(For details see: the National Environmental Policy Act and the regulations found in 24 CFR Part 50 and 24 CFR Part 58)

5. Labor

Any contract for rehabilitation or new construction of twelve (12) or more HOME-assisted units must require the contractor to pay federal prevailing wage rates.

(For details see: the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Federal Labor Standards Compliance in Housing and Community Development Programs)

6. Section 3

All contracts for rehabilitation and/or new construction must abide by the requirements of Section 3, which requires the hiring of low-income persons and businesses located in the project area to work on the project.

7. Lead-Based Paint

Any housing which has been assisted in whole or in part with HOME funds must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act and the regulations found in 24 CFR Part 35 and to Title X regulations

8. Debarment and Suspension

All contractors used in connection with HOME-funded projects must be certified to not be presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excused from participation from any federally-assisted construction projects. (For details see: 24 CFR Part 24 Appendix B, Executive Order 12549)

9. Flood Insurance

HOME funds may not be used for acquisition, new construction, or rehabilitation of a project located in an area identified by Federal Emergency Management Agency as having special flood hazards unless the community in which the project is to be located participates in the National Flood Insurance Program or other flood insurance of similar coverage is obtained. (For details see: the Flood and Disaster Protection Act of 1973 and the regulations found at 44 CFR Parts 59 through 79.)

VIII. RECORD KEEPING

Each developer/subrecipient or sponsor of a HOME-assisted project will be required to maintain certain records, which will be subject to annual review, by the NC OCD staff upon reasonable notice. The types of records include, but are not limited to:

- 1) Records and NC OCD -approved certifications which evidence compliance with income targeting requirements and rent levels throughout the applicable period of affordability;
- 2) Records and NC OCD -approved certifications, which demonstrate that HOME-financed units meet the applicable property standards;
- 3) For rental projects, NC OCD -approved leases, and low income tenant certifications as well as affirmative marketing and tenant-selection plans;
- 4) For homeownership proposals, records and NC OCD - approved certifications which evidence the compliance with income eligibility provisions and the appraised value of the property after rehabilitation, or the initial purchase price, as applicable;
- 5) Records which indicate whether the project is mixed-income, mixed-use or both and that the project complies with the eligibility provisions for mixed-income and mixed-use projects;
- 6) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program funded in whole or in part with HOME funds;
- 7) Documentation of actions undertaken to meet the equal opportunity and fair housing regulations;
- 8) Documentation of a project sponsor's outreach to minority-owned and female-owned businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with HOME funds, the amount of the contract or subcontract, and documentation of the sponsor's affirmative steps to assure that minority business and women's business

enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services;

- 9) Records indicating compliance with the affirmative marketing procedures and approval of the Affirmative Marketing Plan by NC OCD.
- 10) Records which indicate compliance with the Uniform Relocation Act and the relocation procedures prescribed by NC OCD. This includes project occupancy lists identifying the name and address of all persons occupying the real property on the date the application was submitted by the applicant had site control and the application is later approved, or the date the NC OCD approved the site, if the applicant did not have site control at the time of application, and the name and address of all persons occupying the property upon project completion;
- 11) Records and NC OCD -approved certifications indicating compliance with the Davis-Bacon Act including contract provisions and payroll records;
- 12) Records and NC OCD -approved certifications concerning compliance with Section 3;
- 13) Records and NC OCD -approved certifications concerning lead-based paint testing and abatement activities;
- 14) Records of certifications concerning debarment and suspension;
- 15) Records and certifications demonstrating compliance with flood insurance requirements; and
- 16) Records and certifications listing NC OCD as additional insured on all official insurance documents.

IX. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

A Community Housing Development Organization ("CHDO") is a nonprofit organization that meets special HUD-established criteria under the HOME Program.

A. Funding

1. **CHDO Set-Aside** – NC OCD will reserve at least 15% of its total HOME Program allocation each year for housing to be developed, sponsored or owned by CHDOs. These funds will be distributed on a competitive basis according to the priorities stated herein. More funds may be made available to CHDOs depending on competition and assessed need once eligible CHDOs have been identified.
2. **Predevelopment Loans Set-Aside** – Up to 10% of the CHDO set-aside may be made available for project-specific site control or seed money loans.

B. Definition

In order to qualify as a CHDO under the HOME Program, a nonprofit must meet the following requirements:

- 1) Is organized under State or local laws;
- 2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- 3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization (CHDO) may be sponsored or created by a for-profit entity, but:
 - a. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;
 - b. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members; and
 - c. The community housing development organization (CHDO) must be free to contract for goods and services from vendors of its own choosing;
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986;
5. Does not include a public body (including the participating jurisdiction). An organization that is State or locally chartered may qualify as a community housing development organization. However, the State or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of the participating jurisdiction or State recipient. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members;
6. Has standards of financial accountability that conform to 24 CFR 84.21, Standards for Financial Management Systems;
7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
8. Maintains accountability to low-income community residents by:
 - a. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, a community may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
 - b. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
9. Has a demonstrated capacity for carrying out activities assisted with HOME funds. The HOME Final Rule approved in July 2013 requires that CHDOs that receive CHDO set-aside funds to develop HOME-assisted housing must demonstrate development capacity through

paid staff with development experience.; and

10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

C. CHDO Eligible Activities

Only the following activities qualify towards the 15% CHDO set-aside:

1. Acquisition and/or rehabilitation of existing rental housing,
2. New construction of rental housing or single family homes, and
3. Acquisition and rehabilitation of existing housing for sale to homebuyers.

D. Location of Projects

CHDO's are eligible to apply for projects located in all parts of the Nassau Urban County Consortium. CHDO's are encouraged to confirm with NC OCD that the location of the proposed project is within the consortium prior to preparing a funding application.

ATTACHMENT A
Nassau County HOME ~ High Priority Projects

The primary objective of the HOME Investment Partnerships (HOME) Program is to expand the supply of owner and rental housing for low income households. Funding is targeted to projects which will provide rental, homeownership and transitional housing for extremely low, low and moderate income households through new construction and substantial rehabilitation activities.

Nassau County's Five-Year (2020-24) Consolidated Plan also establishes several high priorities that will guide the review and funding of HOME Applications. Application review will consider the location of proposed developments, the number of units to be created and/or rehabilitated and the number to be made available to those of low and very low income, the degree that projects will leverage other funding sources, and the number of units that will be accessible to those with mobility, hearing and visual impairments. Projects meeting the County's highest priorities may qualify for more beneficial terms of funding, within the limits of HUD's underwriting criteria..

Nassau County's HOME Funding Priorities

1. New Construction of Non-Age Restricted Rental Housing in High Opportunity Areas
Mixed-Income, Mixed-Use Projects Preferred
2. New Construction of Non-Age Restricted Rental Housing in Close Proximity to LIRR Stations
Projects near to major NICE bus stops will also be considered highly
3. Development of Additional Units for Special Needs Populations Through New Construction, or Conversion of Properties
4. Preservation of Existing Sub-Standard Housing Units Through Substantial Rehabilitation will also be considered highly

High Priority Special Needs Populations Include:

- Seniors
- Chronically Homelessness Individuals and Families with Children
- Mentally Ill Individuals
- Seniors
- Families with Children
- Chronic Substance Abusers
- Persons with HIV/AIDS
- Victims of Domestic Violence
- Unaccompanied Youth
- Veterans

5. Preservation of Existing Sub-Standard Rental Housing Units for Low and Very-Low Income Residents Through Substantial Rehabilitation
6. Expansion of Homeownership Opportunities for Moderate Income Households via New Construction, Acquisition/Rehabilitation and re-Sale and Homebuyer Programs

ATTACHMENT B
HOME-Assisted Project Income Limits
EFFECTIVE DATE: JUNE 1, 2021

Income Level	Household Size					
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
50% of Median (Very Low Income)	\$45,500	\$52,000	\$58,500	\$65,000	\$70,100	\$75,300
60% of Median	\$54,600	\$62,400	\$70,100	\$77,900	\$84,200	\$90,400
80% of Median (Low Income)	\$72,750	\$83,150	\$93,550	\$103,900	\$112,250	\$120,550

ATTACHMENT C

HOME-Assisted Rental Housing Rent Limits

Effective: June 1, 2021

Rent Limits ¹	Unit Size					
	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom
Low HOME Rent ²	\$1,137	\$1,218	\$1,462	\$1,688	\$1,883	\$2,078
High HOME Rent	\$1,343	\$1,479	\$1,777	\$2,044	\$2,260	\$2,476

¹ These are the rents which are determined by comparing fair market rents with 50% and 65% rent limits provided by HUD. Please Note: These rents include utilities, and must be reduced if the tenant pays utilities. Utility allowances must be approved by the NC OHCD.

² The Low HOME Rent applies to a minimum of 20% of the units in projects with five or more HOME-assisted units.

ATTACHMENT D

Maximum Property Value

Effective: June 1, 2021

Newly Constructed Housing. The new HOME homeownership value limits for newly constructed HOME units is 95 percent of the median purchase price for the area based on Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing. Nationwide, HUD established a minimum limit, or floor, based on 95 percent of the U.S. median purchase price for new construction for nonmetropolitan areas. This figure is determined by the U.S. Census Bureau. HUD has used the greater of these two figures as their HOME homeownership value limits for newly constructed housing in each area.

FY2021 Unadjusted Median Value – Existing Housing	\$507,000
95 percent of the median purchase price	\$481,650

Existing Housing. The new HOME homeownership value limits for existing HOME units is 95 percent of the median purchase price for the area based on Federal FHA single family mortgage program data for existing housing and other appropriate data that are available nationwide for sale of existing housing in standard condition. Nationwide, HUD has established a minimum limit, or floor, based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. HUD has used the greater of these two figures as their HOME homeownership value limits for existing housing in each area.

FY2021 Unadjusted Median Value – New Housing	\$489,400
95 percent of the median purchase price	\$464,930

ATTACHMENT E

HOME ASSISTED RENTAL HOUSING

Utility Allowances

These figures differ based on Community and type of housing. For those rental projects that propose to charge utility costs to the tenant, please contact NC OCD to obtain the current allowances prior to establishing rents and finalizing your operating pro forma.

