

SUBCHAPTER 01M - NORTH CAROLINA HOUSING TRUST FUND

SECTION .0100 - GENERAL POLICY GUIDELINES

24 NCAC 01M .0101 ADOPTION OF CHAPTER 122E BY REFERENCE

History Note: Authority G.S. 122E-4; 122E-5; 122E-8; 150B-14(c);
Eff. September 1, 1988;
Amended Eff. November 2, 1992;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0200 - GENERAL HOUSING TRUST FUND PROGRAM REQUIREMENTS

24 NCAC 01M .0201 PURPOSE

History Note: Authority G.S. 122E-4; 122E-5; 122E-8; 150B-14(c);
Temporary Rule Eff. May 13, 1988 For a Period of 180 Days to Expire on November 9, 1988;
Eff. December 1, 1988;
Amended Eff. November 2, 1992; May 1, 1989;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.

24 NCAC 01M .0202 ELIGIBILITY

- (a) Eligible projects under Trust Fund programs shall include those identified in G.S. 122E-6(c) and (d).
- (b) Specific activities eligible for financing through Trust Fund programs will be identified in the rules for each program.
- (c) Eligible applicants for Trust Fund programs will be identified in the rules for each program. Eligible recipients of Trust Fund funding must directly operate the program funded.
- (d) Housing units assisted under Trust Fund programs must be occupied by very low-, low- or moderate-income households, as defined G.S. 122E-6(a). Specific targeting of funds required under each program will be identified in the rules for each program and the program application and funding documents.
- (e) All rental housing units assisted under the Trust Fund must remain affordable to the target population, as required by G.S. 122E-6(b). Applicants for funding will be required to demonstrate how affordability will be maintained. The agency will use loan documents to help ensure that affordability is maintained.
- (f) Eligible forms of assistance under Trust Fund programs will be identified in the rules for each program. Loans will be repaid to the Trust Fund.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8; 150B-14(c);
Temporary Rule Eff. May 13, 1988 For a Period of 180 Days to Expire on November 9, 1988;
Eff. December 1, 1988;
Amended Eff. February 1, 1993; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0203 APPLICATION PROCEDURES

- (a) Funding cycles for Trust Fund programs will be established on an annual basis, or more frequently, depending on the need for and the availability of funds. Separate funding cycles may be utilized for new construction, rehabilitation, energy conservation and other projects.
- (b) The agency will solicit applications for Trust Fund programs by mailing information to eligible applicants [as defined in Rule .0202(c)] and by other methods of public announcement.
- (c) Eligible applicants may apply for funding under Trust Fund programs by submitting an application to the agency in a manner described in the program application documents available from the agency. The agency will develop the application documents which will include, but not be limited to, a Request for Proposals and application form(s). The agency will from time to time amend the contents of the application documents.
- (d) The agency will offer technical assistance to prospective applicants to assist them in preparing applications for Trust Fund programs.

History Note: Authority G.S. 122E-4; 122E-5; 122E-8; 150B-14(c);
Temporary Rule Eff. May 13, 1988 For a Period of 180 Days to Expire on November 9, 1988;
Eff. December 1, 1988;
Amended Eff. November 2, 1992; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0204 SELECTION PROCEDURES

- (a) In distributing program funds, the partnership shall develop an allocation formula that will promote the distribution of funds across the state based on population and very low-, low- and moderate-income housing need as defined in G.S. 122E-6(a). Population will be estimated using the most recent state population estimates available from the Office of State Planning. Very low-, low-, and moderate-income housing need will be estimated using the most recent available U.S. Census data for household income, housing affordability and housing condition.
- (b) If applications received by the applicable deadline are insufficient to utilize all of the funds allocated to a funding cycle, geographic region and urban or rural area, the partnership, may extend the application deadline.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Temporary Rule Eff. May 13, 1988 For a Period of 180 Days to Expire on November 9, 1988;
Eff. December 1, 1988;
Amended Eff. February 1, 1993; May 1, 1989;
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24 NCAC 01M .0205 ADMINISTRATION

History Note: Filed as a Temporary Rule Eff. May 13, 1988 For a Period of 180 Days to Expire on November 9, 1988;
Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. December 1, 1988;
Repealed Eff. February 1, 1993.

SECTION .0300 - HOUSING PRODUCTION PROGRAM

24 NCAC 01M .0301 GOAL AND OBJECTIVES

- (a) The goal of the Housing Production Program (the "program") is to increase the supply of housing that is affordable to very low, low- and moderate-income households as defined in G.S. 122E-6(a).
- (b) The objectives of the program are:
- (1) To primarily serve low-income households;
 - (2) To add units to the housing stock that will be affordable on a long-term basis;
 - (3) To encourage energy-efficient housing design and construction that will lower operating costs for both homeowners and tenants;
 - (4) To assist projects that would otherwise not be financially feasible as lower-income housing;
 - (5) To assist communities that have not participated in previous Program funding cycles;
 - (6) To distribute Program funds to all areas of the state based on very low-, low- and moderate income housing needs as defined in Rule .0204(a) of this Subchapter; and
 - (7) To assist projects serving populations with special housing needs including the elderly, persons with disabilities, the homeless, single parent households and large households (i.e., those with five or more people).

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0302 ELIGIBILITY REQUIREMENTS

(a) Both rental and home ownership projects are eligible under the program. In addition, eligible projects are those including:

- (1) New construction;
- (2) Acquisition and rehabilitation; or
- (3) Substantial rehabilitation.

(b) Program funds may be used for the following costs:

- (1) Construction costs;
- (2) Preconstruction costs; and
- (3) Other development costs.

(c) Program financing shall include one or more of the following approaches, depending on the Trust Fund funding sources available and the financing needs of each project:

- (1) Grants;
- (2) Forgivable and repayable deferred payment loans; and
- (3) Non-interest-bearing and interest-bearing amortizing loans.

Forgivable loans will be forgiven on a pro rata basis over terms ranging from five to 10 years if the property assisted with Program funds remains affordable to and occupied by very low-, low- and moderate-income households, as defined in G.S. 122E-6(a).

(d) Program funds may be provided as:

- (1) Permanent mortgage financing;
- (2) Construction loans;
- (3) Predevelopment loans; and
- (4) Bridge loans.

(e) Eligible applicants for program funds include:

- (1) Private nonprofit organizations;
- (2) Private for-profit developers;
- (3) Public agencies;
- (4) Units of local governments; and
- (5) Lead regional organizations.

(f) Households eligible for assistance under the Program include very low-, low- and moderate-income households, as defined in G.S. 122E-6(a).

(g) Each applicant for program funds shall submit a nonrefundable application fee. The fee shall not exceed five hundred dollars (\$500.00) for private for-profit organizations and two hundred and fifty dollars (\$250.00) for all other organizations.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0303 THRESHOLD REVIEW CRITERIA

The agency's evaluation of applications for funding shall consider the following threshold criteria:

- (1) The application must be complete and submitted on the proper form by the application deadline;
- (2) The application must demonstrate acceptable cash flow projections sufficient to pay debt service, including the program loan, and operating expenses for the project;
- (3) The application must meet the program eligibility requirements addressing eligible applicants, eligible projects, eligible households, eligible uses of funds and eligible forms of assistance;
- (4) The applicant must control the site by ownership, contract to purchase, long term lease, or other means acceptable to the agency;
- (5) The application must identify the sources of both construction and permanent financing;
- (6) The application must provide pro forma information, in the format required by the agency, demonstrating both the affordability of the project to eligible households and the need for program funds;
- (7) The application must provide evidence that the project is consistent with local land use plans and development regulations and that public or private infrastructure will be available to serve the project;

- (8) The application must provide site and market information that indicates there will be sufficient demand for the project; and
- (9) The applicant must not be under administrative restrictions from federal, state or local sources barring the applicant's participation in their housing programs.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8; Eff. February 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0304 RANKING CRITERIA

(a) Applications meeting the threshold requirements will be ranked within their respective areas using a competitive point ranking system. No more than 25 percent of the total points available will be awarded under any single criterion. For rental projects the agency will consider the following ranking criteria:

- (1) Project Location. Points will be awarded if previous program rental projects have not been sited in the county or city.
- (2) Sponsor Experience. Points will be awarded based on successful development experience for similar types of projects including, but not limited to, the number of units developed and the avoidance of mortgage defaults or adverse management agent proceedings.
- (3) Affordability. Points will be awarded based on the affordability of the project to eligible households and length of time the development will remain affordable to low-income households.
- (4) Feasibility. Points will be awarded based on the agency's analysis of the economic feasibility of the project using factors including, but not limited to, the debt service coverage ratio, the anticipated occupancy rate, the projected per unit operating costs, the proposed per unit construction cost, the status of zoning and other development permits and the status of construction and permanent financing.
- (5) Other Contributions. Points will be awarded based on the percentage of the project replacement cost that is derived from other below-market-rate sources of debt financing and from equity financing.
- (6) Project Impacts. Points will be awarded based on the relative extent of housing needs in the county of the proposed project.
- (7) Special Needs. Points will be awarded for projects that will serve populations with special housing needs including the homeless, the elderly, persons with disabilities and large families, based on the percentage of units reserved for those households and the types of services to be provided to the households.
- (8) Market, Site and Building Characteristics. Points will be awarded based on: the extent of demand documented by the project's market study; if the project helps distribute low-income housing units in the community or is part of a neighborhood revitalization strategy; if the site provides good access to employment, shopping, services and transportation; if there are no incompatible land uses impacting the site; and based on the quality of the site plan and building design.

(b) Applications for home ownership projects meeting the threshold requirements will be ranked within their respective areas using a competitive point ranking system. No more than 25 percent of the total points available will be awarded under any single criterion. For home ownership projects the competitive ranking criteria will include:

- (1) Project Location. Points will be awarded if previous program home ownership projects have not been sited in the county or city.
- (2) Sponsor Experience. Points will be awarded if the principal has successful development experience for similar types of projects including, but not limited to, the number of units developed, and the avoidance by the principal or marketing/sales agent of mortgage defaults, bankruptcy, adverse fair housing disputes, adverse civil rights disputes and adverse proceedings and settlements involving the Department of Housing and Urban Development (HUD) or the Farmers Home Administration (FmHA).
- (3) Affordability. Points will be awarded based on the affordability of the units to eligible households, the replacement cost of the homes and the monthly cost including principal, interest, taxes and insurance (PITI) of the homes.
- (4) Feasibility. Points will be awarded based on the agency's analysis of the economic feasibility of the project using criteria including, but not limited to, the energy efficiency of the homes, the

amount of the downpayment and closing costs to be paid by the homebuyers, the projected length of time to complete the project, the status of zoning and subdivision approval, and the status of construction and permanent financing.

- (5) Other Contributions. Points will be awarded based on the percentage of the project replacement cost that is derived from other below-market-rate sources of debt financing and from equity.
- (6) Impacts. Points will be awarded based on the relative housing needs in the county of the proposed project.
- (7) Special Needs. Points will be awarded for projects that will serve populations with special housing needs including families in assisted rental housing, the elderly, persons with disabilities and large families, based on the percentage of units reserved for households with special needs and the types of services and the extent of services to be provided for the households.
- (8) Market, Site and Building Characteristics. Points will be awarded if the project helps distribute low- and moderate-income housing units in the community or is an integral element of a neighborhood revitalization strategy; if the site provides good access to employment, shopping, services and transportation, if there are no incompatible land uses impacting the site; and based on the quality of the site plan and building design.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8; Eff. November 2, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0305 AGENCY BOARD APPROVAL

(a) In its evaluation of applications the agency will also analyze the capacity of project owners using the following criteria:

- (1) Project owners (organizations and individuals) must provide evidence of sufficient financial capacity to successfully complete and operate the proposed project.
- (2) Project owners, who have defaulted on a Federal Housing Administration (FHA) insured, Farmers Home Administration (FmHA) funded, tax-exempt bond funded or federally subsidized project mortgage in the past five years, will be specifically identified in any presentation to the agency board.
- (3) Project proposals will be reviewed by staff under alternative operating conditions including, but not limited to, extended lease-up of up to three years, rent concessions of up to 20 percent and higher operating costs per unit based on averages for other projects in service.
- (4) Project owners may be requested to provide financial assurances including letters of credit or cash escrows that offset any operating losses that will be sustained by the project owner under alternative operating conditions. Financial assurances will be required of project owners who have defaulted on projects identified in Subparagraph (a)(2) of this Rule.

(b) The Agency will use the criteria established in Rules .0303, .0304 of this Section and Paragraph (a) of this Rule to identify those applications to be further analyzed before the final financing decision is made by the agency's board of directors. Selection for financing will be based on the agency's underwriting of each remaining project. The underwriting will include an analysis of:

- (1) The need and market demand for the project;
- (2) The financial feasibility of the project;
- (3) The reasonableness of project costs;
- (4) The project's site plan and building design; and
- (5) The need of each project for program funds.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8; Eff. November 2, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0306 FUNDING COMMITMENT

(a) Projects selected for financing shall receive a written conditional commitment of program funds. The commitment will identify all conditions related to the funding award. The agency shall charge a commitment fee not to exceed one percent of the program loan amount.

(b) After written commitments for all other project financing have been obtained, the applicant will receive a firm commitment of program funds. The firm commitment will identify the timeframe for starting and completing the project.

(c) When the agency is unable to approve an application for financing, it will notify the applicant in writing and specify the reason for the denial of funding.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

SECTION .0400 - REHABILITATION INCENTIVE PROGRAM

24 NCAC 01M .0401 GOALS AND OBJECTIVES

(a) The goal of the Rehabilitation Incentive Program (the "program") is to encourage the rehabilitation of housing occupied by very low-, low- and moderate-income households as defined in G.S. 122E-6(a) by providing funding for the energy-related costs associated with comprehensive housing rehabilitation projects.

(b) The objectives of the program are:

- (1) To primarily serve very low- and low-income households;
- (2) To involve communities that have not participated in previous program funding cycles;
- (3) To distribute funds to all areas of the state based on the housing needs of very low-, low- and moderate-income households as defined in Rule .0204(a) of this Subchapter;
- (4) To encourage comprehensive rehabilitation of housing currently failing to meet minimum housing code standards; and
- (5) To provide assistance to both renters and homeowners.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01M .0402 ELIGIBILITY REQUIREMENTS

(a) The rehabilitation of both owner-occupied and rental housing is eligible under the program. Rehabilitated units must meet or exceed local housing code standards or, if there is no local code, the Housing Quality Standards of the U.S. Department of Housing and Urban Development (HUD). Rehabilitation work must also meet the program's energy efficiency standards.

(b) Program funds may be used for the following costs:

- (1) Energy conservation-related rehabilitation, identified in program application documents; and
- (2) Program support costs, including staff or consultant costs for writing construction specifications, supervising rehabilitation work and related support costs.

(c) Program financing shall include one or more of the following approaches, depending on the Trust Fund funding sources available and the financing needs of each project:

- (1) Grants;
- (2) Forgivable and repayable deferred payment loans; and
- (3) Non-interest-bearing and interest-bearing amortizing loans.

Homeowners may receive either grant or loans. Investor owners shall receive only loans. Forgivable loans will be given on a pro rata basis over terms ranging from five to 10 years if the property assisted with program funds remains affordable to and occupied by very low-, low- and moderate-income households, as defined in G.S. 122E-6(a).

(d) Eligible applicants for program funds include:

- (1) Private nonprofit organizations;
- (2) Public agencies;
- (3) Units of local government; and

- (4) Lead regional organizations.
- (e) Households eligible for assistance under the program include very low-, low- and moderate-income households as defined in G.S. 122E-6(a).
- (f) Each applicant for program funds shall submit a nonrefundable application fee not to exceed two hundred and fifty dollars (\$250.00).

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01M .0403 THRESHOLD REVIEW CRITERIA

The agency's evaluation of applications for funding shall consider the following threshold criteria:

- (1) The application must be complete and submitted on the proper form by the application deadline;
- (2) The project must meet the program eligibility requirements addressing eligible applicants, eligible projects, eligible households, eligible uses of funds and eligible forms of assistance;
- (3) The applicant must identify proposed sources and amounts of matching funds, although those funds do not have to be committed at the time of application;
- (4) The application must provide evidence of local government support for the project;
- (5) The applicant must not be under administrative restrictions from federal, state or local sources barring the applicant's participation in their housing programs.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01M .0404 RANKING CRITERIA

Applications meeting the threshold requirements shall be ranked within their respective areas using a competitive point ranking system. No more than 25 percent of the total points available shall be awarded under any single criterion. The ranking criteria shall include:

- (1) Very Low- and Low-Income Benefit. Points shall be awarded based on the percentage of program funds to be used to benefit very low- and low-income households. Between 0 and 20 points will be awarded under this criterion.
- (2) Special Needs Targeting. Points shall be awarded based on the percentage of program funds used to serve households with special housing needs, such as the homeless, the elderly, persons with disabilities, and large families. Between 0 and 20 points will be awarded under this criterion.
- (3) Other Contributions. Points shall be awarded based on the extent to which other public and private funds are used to match program funds. Between 0 and 30 points will be awarded under this criterion.
- (4) Needs. Points shall be awarded based on the relative housing needs in the county(ies) to be served with program funds. Between 0 and 15 points will be awarded under this criterion.
- (5) Project Location. Points shall be awarded based on the extent to which the city or county has been underserved in previous Trust Fund program funding cycles. Between 0 and 25 points will be awarded under this criterion.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01M .0405 AGENCY BOARD APPROVAL

(a) In its evaluation of applications the agency shall also analyze the capacity of applicants using the following criteria:

- (1) The experience of the applicant in undertaking similar types of projects;
- (2) The performance of the applicant, if applicable, under previous Trust Fund funding cycles;

- (3) The capacity of the organization, including adequate operating budget and staffing support, to complete the project;
 - (4) The experience of the organization in providing affordable housing using its own resources (not federal or state resources).
- (b) The agency shall use the criteria established in Rules .0403, .0404 and .0405(a) of this Section to identify those applications to be further analyzed before the final funding decision is made by the agency's board of directors. Selection for funding shall be based on the agency's analysis of each remaining project. In addition to criteria identified in this Rule, the analysis shall include the need of each project for program funds, the reasonableness of project costs and the relevance of the project to the housing needs of the area.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. February 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01M .0406 FUNDING COMMITMENT

- (a) Applicants selected for funding will be notified and provided with a program Funding Agreement.
- (b) Prior to executing the Funding Agreement the recipient may be required to provide the agency with additional information on the proposed project or to modify the proposed project. After the Funding Agreement has been executed the recipient's grant will be disbursed in 25 percent increments.
- (c) When the agency is unable to approve an application for funding, it will notify the applicant in writing and specify the reason for the denial of funding.

History Note: Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8;
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.