

**CHAPTER 43**

**NEIGHBORHOOD PRESERVATION BALANCED HOUSING PROGRAM**

**Authority**

N.J.S.A. 52:27D-320.

**Source and Effective Date**

R.2000 d.464, effective October 25, 2000.  
See: 32 N.J.R. 1457(a), 32 N.J.R. 4103(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 43, Neighborhood Preservation Balanced Housing Program, expires on October 25, 2005.

**Chapter Historical Note**

Chapter 43, Neighborhood Preservation Balanced Housing Program, was originally codified in Title 5 as Chapter 14, Neighborhood Preservation Balanced Housing Program. Chapter 14 was adopted as R.1985 d.688, effective January 21, 1986. See: 17 N.J.R. 2489(a), 18 N.J.R. 162(a). Subchapter 4, Affordability Controls, was adopted by R.1989 d.588, effective December 4, 1989. See: 21 N.J.R. 2153(a), 21 N.J.R. 3740(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Neighborhood Preservation Balanced Housing Program, was readopted as R.1990 d.604, effective November 9, 1990. See: 22 N.J.R. 1700(b), 22 N.J.R. 3734(a).

Pursuant to Executive Order No. 66(1978), Chapter 14, Neighborhood Preservation Balanced Housing Program, was readopted as R.1995 d.594, effective October 26, 1995. See: 27 N.J.R. 3256(a), 27 N.J.R. 4698(a).

Pursuant to Reorganization Plan No. 002-1998, Chapter 14, Neighborhood Preservation Balanced Housing Program, was recodified as N.J.A.C. 5:43, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Pursuant to Executive Order No. 66(1978), Chapter 43, Neighborhood Preservation Balanced Housing Program, was readopted as R.2000 d.464, effective October 25, 2000. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:43-1.1 Purpose
- 5:43-1.2 Severability
- 5:43-1.3 Eligible applicants
- 5:43-1.4 Eligible activities
- 5:43-1.5 Definitions
- 5:43-1.6 Waiver
- 5:43-1.7 Maximum allowable project fees

**SUBCHAPTER 2. FUNDING**

- 5:43-2.1 Funding cycles and application procedures
- 5:43-2.2 Allocation of funds
- 5:43-2.3 Cost criteria
- 5:43-2.4 Review criteria
- 5:43-2.5 (Reserved)

**SUBCHAPTER 3. FUNDING CRITERIA**

- 5:43-3.1 General provisions

- 5:43-3.2 Types of projects
- 5:43-3.3 Permanent housing for persons with handicap projects
- 5:43-3.4 Rental projects
- 5:43-3.5 Two-family projects
- 5:43-3.6 Homeownership projects
- 5:43-3.7 Acquisition/rehabilitation projects
- 5:43-3.8 Section 202, Section 811 and public housing new construction projects
- 5:43-3.9 Neighborhood rehabilitation projects
- 5:43-3.10 Landlord projects
- 5:43-3.11 Matching funds projects
- 5:43-3.12 Other projects

**SUBCHAPTER 4. AFFORDABILITY CONTROLS**

- 5:43-4.1 Affordability control provisions
- 5:43-4.2 Affordable Housing Agreement
- 5:43-4.3 Sales units
- 5:43-4.4 Owner-occupied Neighborhood Rehabilitation Projects
- 5:43-4.5 Rental units
- 5:43-4.6 Procedures for establishing eligibility for occupancy
- 5:43-4.7 Foreclosure
- 5:43-4.8 Violations, defaults and remedies
- 5:43-4.9 Effective dates for affordability controls
- 5:43-4.10 (Reserved)

**APPENDIX A. (RESERVED)**

**APPENDIX B. TARGET AREAS AND URBAN AID MUNICIPALITIES—MAXIMUM SUBSIDY RENTAL UNITS**

**APPENDIX C. NON-URBAN AID MUNICIPALITIES—MAXIMUM SUBSIDY RENTAL UNITS**

**APPENDIX D. TARGET AREAS AND URBAN AID MUNICIPALITIES—MAXIMUM SUBSIDY HOMEOWNERSHIP UNITS**

**APPENDIX E. NON-URBAN AID MUNICIPALITIES—MAXIMUM SUBSIDY HOMEOWNERSHIP UNITS**

**APPENDIX F. CONTRACTOR'S FEE SCHEDULE**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**5:43-1.1 Purpose**

The purpose of the Neighborhood Preservation Balanced Housing Program shall be to assist in the delivery of housing affordable to low and moderate income households in viable neighborhoods, in conformance with the State Development and Redevelopment Plan and in fulfillment of Section 20 of the Fair Housing Act of 1985. Consistent with the Act, a substantial percentage of Program awards shall be made to projects and programs in those municipalities receiving State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.).

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

NPBHP assists in delivery of services.

Amended by R.1998 d.438, effective September 8, 1998.

See: 30 N.J.R. 1880(a), 30 N.J.R. 3239(b).

Inserted “, in conformance with the State Development and Redevelopment Plan and” in the first sentence.

**5:43-1.2 Severability**

If any part of this chapter shall be held invalid, the holding shall not affect the validity of the remaining part of these rules. If a part of these rules is held invalid in one or more of its applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

New Rule, R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Eligible applicants", recodified to 5:14-1.3.

**5:43-1.3 Eligible applicants**

(a) Municipal governments shall be the only eligible applicants to the Neighborhood Preservation Balanced Housing Program.

(b) Applications shall only be accepted from municipalities meeting at least one of the following criteria:

1. The municipality has petitioned the Council on Affordable Housing for substantive certification;
2. The municipality has received substantive certification from the Council on Affordable Housing;
3. The municipality has entered into a judicially-approved compliance agreement to settle its fair share housing obligation;
4. The municipality is subject to a court-ordered builder's remedy;
5. The municipality has been designated as a receiving municipality under a regional contribution agreement and project plan approved by the Council on Affordable Housing; or
6. The municipality has, at any time since Fiscal Year 1988, been eligible to receive State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.).

(c) Applicants that are eligible in accordance with (b)1 above only shall not be eligible to receive program funding until the municipality's Fair Share Plan has received substantive certification from the Council on Affordable Housing.

(d) Applicants that are eligible in accordance with (b)4 above only shall not be eligible to receive program funding until the municipality's Fair Share Plan has been judicially approved by the issuance of a judgment of repose.

Amended by R.1989 d.143, effective March 20, 1989.

See: 21 N.J.R. 3(a), 21 N.J.R. 750(a).

(b) and (c) added; established application and funding criteria for on or after July 1, 1989.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

References to July 1, 1989 deleted.

Recodified from 5:14-1.2 and amended by R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Eligible activities", recodified to 5:14-1.3.

Amended by R.1998 d.438, effective September 8, 1998.

See: 30 N.J.R. 1880(a), 30 N.J.R. 3239(b).

Added (c) and (d).

**5:43-1.4 Eligible activities**

(a) Eligible activities shall include those activities listed below:

1. Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;
  2. Creation of accessory apartments to be occupied by low and moderate income households;
  3. Conversion of nonresidential space to residential purposes provided more than 20 percent of the resulting housing units are to be occupied by low and moderate income households;
  4. Acquisition of real property; demolition and removal of buildings; or construction of new housing that will be occupied by low and moderate income households, or any combination thereof;
  5. Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits, engineering, architectural and other technical services, cost of land acquisition and any buildings thereon, and cost of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved Regional Contribution Agreement;
  6. Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association for rehabilitation or restoration of housing units which it administers which:
    - i. Are unusable or in a serious state of disrepair;
    - ii. Can be restored in an economically feasible and sound manner; and
    - iii. Can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and
  7. Other housing programs for low and moderate income housing including infrastructure projects directly facilitating the construction of low and moderate income housing not to exceed a reasonable percentage of the construction costs of the low and moderate income housing to be provided.
- (b) A proposed activity shall only be considered eligible if the units produced meet the criteria necessary at N.J.A.C. 5:93 to qualify for credit from the Council on Affordable Housing.

(c) Except as noted in (c)1 below, any project which is located in a non-urban aid municipality and which is being developed in accordance with a COAH-certified plan or a court settlement and judgment of repose and for which the developer, or its assignee, has received a density bonus shall not be eligible for Balanced Housing funding.

2. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of the Agreement until such time as title is conveyed to a new owner.

(d) In the event that the Balanced Housing unit is a rental unit, and the owner has leased such unit either for a rental charge in excess of that permitted by the Agreement or to a tenant who has not been certified by the Division, the Division shall have recourse to all legal remedies as stated above, including the recapture of surplus rents paid in excess of the maximum permitted Rental Charge.

Recodified from 5:14-4.9 and amended by R.1996 d.226, effective May 20, 1996.  
See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).  
Former section, "Foreclosure", recodified to 5:14-4.7.

**5:43-4.9 Effective dates for affordability controls**

(a) For units created and rehabilitated with Balanced Housing funds, affordability controls shall be effective as of the date initial restrictions encumber the unit as required by the Balanced Housing Grant Agreement.

(b) For rental units created or rehabilitated with Balanced Housing funds, affordability controls shall remain in effect after the expiration date as required by the Balanced Housing Grant Agreement until the date on which a rental unit shall become vacant provided that the occupant household continues to earn a gross annual income of less than 80 percent of the applicable median income.

(c) The affordability control periods shall be established according to N.J.A.C. 5:43-3.1(f) and shall begin as follows:

1. For sales units, on the date of the initial sales closing transaction by a certified household;
2. For rental housing containing two or more units, on the effective date of an initial lease agreement with a certified household or when permanent certificates of occupancy are issued, whichever is later, or as determined by the Division; and
3. For single-family housing which is rented, on the effective date of an initial lease agreement with a certified household.

Amended by R.1992 d.144, effective April 6, 1992.  
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).  
Stylistic changes.  
Recodified from 5:14-4.10 and amended by R.1996 d.226, effective May 20, 1996.  
See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).  
Former section, "Violations, defaults and remedies", recodified to 5:14-4.8.

**5:43-4.10 (Reserved)**

Recodified to 5:14-4.9 by R.1996 d.226, effective May 20, 1996.  
See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).  
Section was "Length of restrictions".

**APPENDIX A**

(RESERVED)

Amended by R.1992 d.144, effective April 6, 1992.  
See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).  
Phillipsburg added.  
Repealed by R.1996 d.226, effective May 20, 1996.  
See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

**APPENDIX B**

Target Areas and Urban Aid Municipalities—  
Maximum Subsidy Rental Units

Rent *	Studio/SRO	1BR	2BR	3BR	4BR
1,500 or more	1,000	1,000	1,000	1,000	1,000
1,025	1,000	1,000	1,000	1,000	3,000
1,000	1,000	1,000	1,000	1,000	5,500
975	1,000	1,000	1,000	2,000	8,000
950	1,000	1,000	1,000	4,500	10,500
925	1,000	1,000	1,000	7,000	13,000
900	1,000	1,000	3,500	9,500	15,500
875	1,000	1,000	6,000	12,000	18,000
850	1,000	2,500	8,500	14,500	20,500
825	1,000	5,000	11,000	17,000	23,000
800	1,000	7,500	13,500	19,500	25,500
775	1,000	10,000	16,000	22,000	28,000
750	1,000	12,500	18,500	24,500	30,500
725	1,000	15,000	21,000	27,000	33,000
700	2,500	17,500	23,500	29,500	35,500
675	5,000	20,000	26,000	32,000	38,000
650	7,500	22,500	28,500	34,500	40,500
625	10,000	25,000	31,900	37,000	43,000
600	12,500	27,500	33,500	39,500	45,500
575	15,000	30,000	36,000	42,000	48,000
550	17,500	32,500	38,500	44,500	50,500
525	20,000	35,000	41,000	47,000	53,000
500 or less	20,000	35,000	41,000	49,500	55,500

\* Rent includes tenant paid utilities. For rents in between those listed, interpolate.

**ADJUSTMENTS:**

1. Unit Size:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:43-2.4(a)7 for waiver provisions.

The maximum allowable subsidy for any rental unit receiving a project-based Section 8 certificate from the United States Department of Housing and Urban Development or any equivalent project-based subsidy shall be \$15,000.

New Rule R.1992 d.144, effective April 6, 1992.  
 See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).  
 Amended by R.1995 d.339, effective June 19, 1995.  
 See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).  
 Amended by R.1996 d.226, effective May 20, 1996.  
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

The maximum allowable subsidy for any rental unit receiving a project-based Section 8 certificate from the United States Department of Housing and Urban Development or any equivalent project-based subsidy shall be \$15,000.

New Rule R.1992 d.144, effective April 6, 1992.  
 See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).  
 Amended by R.1995 d.339, effective June 19, 1995.  
 See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).  
 Amended by R.1996 d.226, effective May 20, 1996.  
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

**APPENDIX C**

**Nonurban Aid Municipalities—Maximum Subsidy Rental Units**

Rent *	Studio/SRO	1BR	2BR	3BR	4BR
\$975 or more	1,000	1,000	1,000	1,000	1,000
950	1,000	1,000	1,000	1,000	2,500
925	1,000	1,000	1,000	1,000	5,000
900	1,000	1,000	1,000	2,500	7,500
875	1,000	1,000	1,000	5,000	10,000
850	1,000	1,000	2,500	7,500	12,500
825	1,000	1,000	5,000	10,000	15,000
800	1,000	2,500	7,500	12,500	17,500
775	1,000	5,000	10,000	15,000	20,000
750	1,000	7,500	12,500	17,500	2,500
725	1,000	10,000	15,000	20,000	25,000
700	1,000	12,500	17,500	22,500	27,500
675	1,000	15,000	20,000	25,000	30,000
650	2,500	17,500	22,500	27,500	32,500
625	7,500	20,000	25,000	30,000	35,000
600	10,000	22,500	27,500	32,500	37,500
575	12,500	25,000	30,000	35,000	40,000
550	15,000	27,500	32,500	37,500	42,500
525	17,500	30,000	35,000	40,000	45,000
500 or less	17,500	30,000	35,000	42,500	47,500

\* Rent includes tenant paid utilities. For rents in between those listed, interpolate.

**ADJUSTMENTS:**

**1. Unit Size:**

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:43-2.4(a)7 for waiver provisions.

**APPENDIX D**

**Target Areas and Urban Aid Municipalities—Maximum Subsidy Homeownership Units**

Sales Price *	1BR	2BR	3BR	4BR
97,000 and up	1,000	1,000	1,000	1,000
95,000	1,000	1,000	1,000	3,000
92,500	1,000	1,000	1,000	5,500
90,000	1,000	1,000	2,000	8,000
87,500	1,000	1,000	4,500	10,500
85,000	1,000	1,000	7,000	13,000
82,500	1,000	3,500	9,500	15,500
80,000	1,000	6,000	12,000	18,000
77,500	2,500	8,500	14,500	20,500
75,000	5,000	11,000	17,000	23,000
72,500	7,500	13,500	19,500	25,500
70,000	10,000	16,000	22,000	28,000
67,500	12,500	18,500	24,500	30,500
65,000	15,000	21,000	27,000	33,000
62,500	17,500	23,500	29,500	35,500
60,000	20,000	26,000	32,000	38,000
57,500	22,500	28,500	34,500	40,500
55,000	25,000	31,000	37,000	43,000
52,500	27,500	33,500	39,500	45,500
50,000 or less	30,000	36,000	42,000	48,000

\* For prices in between those listed, interpolate.

**ADJUSTMENTS:**

**1. Unit Size:**

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:43-2.4(a)7 for waiver provisions.

New Rule R.1995 d.339, effective June 19, 1995.

See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).  
 Amended by R.1996 d.226, effective May 20, 1996.  
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

New Rule, R.1995 d.339, effective June 19, 1995.  
 See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).  
 Amended by R.1996 d.226, effective May 29, 1996.  
 See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

**APPENDIX E**

**Nonurban Aid Municipalities—Maximum  
 Subsidy Homeownership Units**

Sales Price *	1BR	2BR	3BR	4BR
\$90,000 and up	1,000	1,000	1,000	1,000
87,000	1,000	1,000	1,000	2,500
85,000	1,000	1,000	1,000	5,000
82,500	1,000	1,000	2,500	7,500
80,000	1,000	1,000	5,000	10,000
77,500	1,000	2,500	7,500	12,500
75,000	1,000	5,000	10,000	15,000
72,500	2,500	7,500	12,500	17,500
70,000	5,000	10,000	15,000	20,000
67,500	7,500	12,500	17,500	22,500
65,000	10,000	15,000	20,000	25,000
62,500	12,500	17,500	22,500	27,500
60,000	15,000	20,000	25,000	30,000
57,500	17,500	22,500	27,500	32,500
55,000	20,000	25,000	30,000	35,000
52,500	22,500	27,500	32,500	37,500
50,000 or less	25,000	30,000	35,000	40,000

\* For prices in between those listed, interpolate.

**ADJUSTMENTS:**

**1. Unit Size:**

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

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For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. See N.J.A.C. 5:43-2.4(a)7 for waiver provisions.

**APPENDIX F**

**Contractor's Fee Schedule**

(Interpolate as Required)

Fee Schedule: The Contractor's fee shall be based on a percentage of the construction cost in accordance with the following schedule:

Construction Cost	Percentage	Contractor's Fee
Under \$2 Million	10.0	—
\$ 2,000,000.00	10.0	\$ 200,000.00
3,000,000.00	9.5	285,000.00
4,000,000.00	9.0	360,000.00
5,000,000.00	8.5	425,000.00
6,000,000.00	8.2	492,000.00
7,000,000.00	7.9	553,000.00
8,000,000.00	7.6	608,000.00
9,000,000.00	7.3	657,000.00
10,000,000.00	7.0	700,000.00
11,000,000.00	6.7	737,000.00
12,000,000.00	6.6	792,000.00
13,000,000.00	6.5	845,000.00
14,000,000.00	6.4	896,000.00
15,000,000.00	6.3	945,000.00
16,000,000.00	6.2	992,000.00
17,000,000.00	6.1	1,037,000.00
18,000,000.00	6.0	1,080,000.00
19,000,000.00	5.9	1,121,000.00
20,000,000.00	5.8	1,160,000.00
21,000,000.00	5.7	1,197,000.00
22,000,000.00	5.6	1,232,000.00
23,000,000.00	5.5	1,265,000.00
24,000,000.00	5.4	1,296,000.00
25,000,000.00	5.3	1,325,000.00
26,000,000.00	5.2	1,352,000.00
28,000,000.00	5.0	1,400,000.00
30,000,000.00	4.8	1,440,000.00
32,000,000.00	4.6	1,472,000.00
34,000,000.00	4.4	1,496,000.00
36,000,000.00	4.2	1,512,000.00
38,000,000.00	4.0	1,520,000.00
Over \$38 Million	4.0	—

New Rule R.1992 d.144, effective April 6, 1992.  
 See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).  
 Recodified from App. D by R.1995 d.339, effective June 19, 1995.  
 See: 27 N.J.R. 1508(a), 27 N.J.R. 2385(a).