

CHAPTER 96

PROCEDURAL RULES OF THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR THE PERIOD BEGINNING ON JUNE 2, 2008

Authority

N.J.S.A. 52:27D-301 et seq.

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Chapter Expiration Date

Chapter 96, Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on June 2, 2008, expires on June 2, 2013.

Chapter Historical Note

Chapter 96, Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on June 2, 2008, was adopted as new rules by R.2008 d.146, effective June 2, 2008. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:96-1.1 Short title; purpose; scope

(a) The provisions of this chapter shall be known as the "Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 2, 2008."

(b) This chapter establishes procedures to be used by municipalities in addressing their constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households pursuant to N.J.S.A. 52:27D-301 et seq.

(c) Municipalities filing or petitioning the Council on or after December 20, 2004 shall be governed by the provisions of this chapter.

(d) If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts 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.

5:96-1.2 Jurisdiction

(a) A municipality shall fall within the jurisdiction of the Council if:

1. The municipality has filed a Housing Element and Fair Share Plan and petitioned for substantive certification simultaneously or within two years of such filing;
2. The municipality has filed a Housing Element and Fair Share Plan and is the defendant to an exclusionary zoning suit within two years of such filing;
3. The municipality has been granted substantive certification pursuant to N.J.A.C. 5:96-6.3; or
4. A court transfers jurisdiction of the case to the Council pursuant to N.J.A.C. 5:96-2.3.

(b) If a municipality fails to petition for substantive certification within two years after filing a Housing Element and Fair Share Plan in accordance with N.J.S.A. 52:27D-313, the filing shall automatically expire.

5:96-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this chapter, N.J.A.C. 5:97 and UHAC.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan proposed or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97, and/or funded through an affordable housing trust fund.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

"Amendment" means the municipal submission of a revision to a certified Housing Element and Fair Share Plan that has been adopted by the planning board and endorsed by the governing body that requires a change in site, substantial change in density, a change in other zoning requirements that result in a change of housing type on a specific site, or a