

CHAPTER 91

PROCEDURAL RULES OF THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Authority

N.J.S.A. 52:27D-301 et seq., specifically 52:27D-308.

Source and Effective Date

R.1997 d.511, effective November 5, 1997. See: 29 N.J.R. 3918(a), 29 N.J.R. 5063(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 91, Procedural Rules of the New Jersey Council on Affordable Housing, expires on May 4, 2003. See: 34 N.J.R. 3604(a).

Chapter Historical Note

Chapter 91, Procedural Rules of the New Jersey Council on Affordable Housing, was adopted as R.1986 d.221, effective June 16, 1986. See: 18 N.J.R. 821(a), 18 N.J.R. 1267(a).

Pursuant to Executive Order No. 66(1978), Chapter 91, Procedural Rules of the New Jersey Council on Affordable Housing, was readopted as R.1991 d.119, effective February 7, 1991. See: 22 N.J.R. 3610(b), 23 N.J.R. 688(a).

Pursuant to Executive Order No. 66(1978), Chapter 91, Procedural Rules of the New Jersey Council on Affordable Housing, was repealed and a new Chapter 91, Procedural Rules of the New Jersey Council on Affordable Housing, was adopted by R.1992 d.491, effective December 7, 1992. See: 24 N.J.R. 2671(a), 24 N.J.R. 4344(b).

Pursuant to Executive Order No. 66(1978), Subchapter 14, Interim Substantive Certification, was repealed and a new Subchapter 14, Interim Procedures, was adopted by R.1993 d.407, effective August 16, 1993. See: 25 N.J.R. 1118(a), 25 N.J.R. 3753(a).

Pursuant to Executive Order No. 66(1978), Chapter 91 was readopted as R.1997 d.511, effective November 5, 1997. See: Source and Effective Date.

Case Notes

Use by Department of Environmental Protection (DEP) of its proposed impervious cover percentages for its coastal centers did not conflict with Fair Housing Act. In the Matter of the Protest of Coastal Permit Program Rules, 807 A.2d 198, 354 N.J.Super. 293.

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**APPENDIX (RESERVED)**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**5:91-1.1 Short title**

The provisions of this chapter shall be known as "the procedural rules of the New Jersey Council on Affordable Housing."

**Case Notes**

Township could adopt housing element of master plan at properly noticed open meeting. Hills Development Co. v. Township of Bernards, 229 N.J.Super. 318, 551 A.2d 547 (A.D.1988).

**5:91-1.2 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.).

"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.).

"Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State.

"Days" means calendar days.

"Fair Share Plan" means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet the low and moderate income housing need of its region, and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in sections 9 and 14 of the Act, and as further described and defined in N.J.A.C. 5:93.

"Filed" means accepted for filing by the Council in conformance with this chapter and N.J.A.C. 5:93.

"Housing element" means that portion of a municipality's master plan, consisting of reports, statements, proposals, maps, diagrams and text, designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low and moderate income housing, as further described by N.J.A.C. 5:93.

"Housing region" means a geographic area, determined by the Council, of no less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities, and which constitute to the greatest extent practicable the primary metropolitan statistical areas as last defined by the United States Census Bureau prior to July 2, 1985.

"Mediation" means that process established by N.J.S.A. 52:27D-315 whereby objectors to a municipality's petition for substantive certification and other parties meet with the municipality under the direction of a Council-appointed mediator to attempt to resolve disputes.

"OAL" means the Office of Administrative Law.

"Objector" means a person who files objections to a municipal housing element and fair share plan in accordance with N.J.A.C. 5:91-4.1 or is the owner of record of a site designated for low and moderate income housing in a municipal housing element and fair share plan in accordance with N.J.A.C. 5:91-7.2(e).

"Participant to mediation" means any party the mediator deems necessary to conduct mediation and resolve any objections to a municipality's petition for substantive certification. The Council, or its designee conducting mediation, shall determine the extent of participation of each participant to mediation. A participant to mediation is not to be considered an objector to the municipality's petition for substantive certification.

“Petition for Substantive Certification” means that petition which a municipality files, or is deemed to have filed, which engages the Council’s mediation and review process.