

**CHAPTER 92**

**SUBSTANTIVE RULES OF THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR THE PERIOD AUGUST 4, 1986 THROUGH JUNE 5, 1994**

**Authority**

N.J.S.A. 52:27D-301 et seq., specifically 52:27D-307.

**Source and Effective Date**

R.1996 d.254, effective May 8, 1996.  
See: 28 N.J.R. 1455(a), 28 N.J.R. 2854(a).

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

Chapter 92, Substantive Rules of the New Jersey Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, expires on May 8, 2001.

**Chapter Historical Note**

Chapter 92, Substantive Rules of the New Jersey Council on Affordable Housing, was adopted as R.1986 d.333, effective August 4, 1986. See: 18 N.J.R. 1124(b), 18 N.J.R. 1527(a). Subchapter 14, Inclusionary Developments, and Subchapter 15, Affirmative Marketing Within Inclusionary Developments, were adopted as R.1986 d.479, effective December 15, 1986. See: 18 N.J.R. 2442(a). Subchapter 16, Accessory Apartments, was adopted as R.1988 d.84, effective February 16, 1988. See: 19 N.J.R. 2089(b), 20 N.J.R. 385(b). Subchapter 17, Rehabilitation of Indigenous Need, was adopted as R.1988 d.295, effective July 5, 1988. See: 20 N.J.R. 864(b), 20 N.J.R. 1539(b).

Pursuant to Executive Order No. 66(1978), Chapter 92 was readopted as R.1991 d.120, effective February 7, 1991. See: 22 N.J.R. 3671(a), 23 N.J.R. 688(b). Subchapter 18, Development Fees, was adopted as R.1992 d.45, effective January 21, 1992. See: 23 N.J.R. 2813(b), 24 N.J.R. 235(a). The expiration date of Chapter 92, Substantive Rules of the Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994, was extended by gubernatorial directive from February 7, 1996 to June 1, 1996. See: 28 N.J.R. 1378(a).

Pursuant to Executive Order No. 66(1978), Chapter 92 was readopted as R.1996 d.254, effective May 8, 1996. See: Source and Effective Date .

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SUBCHAPTER 1. GENERAL PROVISIONS

5:92-1.1 Short title; purpose; scope

(a) The provisions of this chapter shall be known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the Period August 4, 1986 through June 5, 1994."

(b) The purpose of this chapter will be the crediting of past actions taken by municipalities in addressing their obligations to house low and moderate income households.

(c) These rules can be applied to all municipalities within the Council's jurisdiction.

Amended by R.1994 d.290, effective June 6, 1994.  
See: 25 N.J.R. 5763(a), 26 N.J.R. 2900(a).

Case Notes

Regulations pertaining to determining municipal fair shares of low and moderate income housing were entitled to presumption of validity. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

Superior Court, Law Division had no authority to invalidate regulations of the Council on Affordable Housing dealing with determining municipal fair shares of low and moderate housing units. *Bi-County Development Corp. v. Mayor and Council of Borough of Oakland*, 224 N.J.Super. 455, 540 A.2d 927 (L.1988).

5:92-1.2 Severability clause

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 their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

Case Notes

Invalid affordable housing regulations were severable. *Township of Bernards v. State*, Dept. of Community Affairs, 233 N.J.Super. 1, 558 A.2d 1 (A.D.1989), certification denied 118 N.J. 194, 570 A.2d 959, certification denied 118 N.J. 195, 570 A.2d 959.

**5:92-1.3 Definitions**

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