

(b) In determining calculated need, COAH has granted prior-cycle credits. These are credits that have been granted by the Council for the construction of low and moderate income units between April 1, 1980 and December 15, 1986. In determining calculated need, the Council has also provided a reduction to the municipal housing obligation based on the realistic opportunity a municipality created in response to its 1987-1993 housing need through regional contribution agreements (RCAs), plans for new construction, rental bonus credits, or through its zoning powers. The source for this information includes data from the Council's records, county planning boards and Masters appointed by the court. To the extent that this information is incomplete or incorrect, the Council shall modify the calculated need, in accordance with this chapter.

(c) Municipalities shall not receive both a reduction and a credit for the same housing unit. The Council's intent with the reductions and the credits is to ensure that a municipality's obligation is lowered by one, or by a rental bonus credit provided: the municipality has created a realistic opportunity that resulted in a sound housing unit; or, if the unit has not yet materialized, the municipality continues to offer the realistic opportunity. A reduction shall be considered a credit when a low or moderate income unit is constructed (or in the case of an RCA, the contract terms are honored) and appropriately restricted to a low or moderate income household.

(d) Unless otherwise stated, a municipality shall receive credits for housing activity prior to the date of the publication of its petition for substantive certification, provided such activity complies with criteria for credits in this subchapter. A municipality shall document eligible new construction with certificates of occupancy; eligible rehabilitation with final inspections; and transferred units with evidence of the required transfer of funds to the sending municipality.

(e) For units constructed after December 15, 1986, a municipality shall receive credits for housing activity that complies with the criteria in this subchapter and with the rules governing new construction, and transferred units (via an RCA) between 1987-1993, in accordance with N.J.A.C. 5:92, a housing unit constructed under the auspices of a government funded, financed or otherwise assisted housing program designed specifically for households whose income does not exceed 80 percent of median shall also be eligible for a credit provided:

1. At least half of the units are affordable to households whose incomes do not exceed 50 percent of median income; and
2. The units are governed by controls on affordability that are substantially the same as those set forth in N.J.A.C. 5:92.

(f) A credit and/or a reduction in excess of the municipal precredited need shall be applied on a one for one basis or as a rental bonus credit against its future housing obligation.

Amended by R.1995 d.491, effective September 5, 1995.

See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

Amended by R.1998 d.21, effective January 5, 1998.

See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).

Substituted "RCA" for "regional contract agreement".

5:93-3.2 Credits for units constructed between April 1, 1980 and December 15, 1986

(a) A housing unit created and occupied between April 1, 1980 and December 15, 1986 is eligible for a one for one credit when it has been developed specifically for households whose income does not exceed 80 percent of median income and the unit is governed by controls on affordability that are the same as those set forth in N.J.A.C. 5:92-12 and Appendix E, incorporated herein by reference.

(b) A municipality may receive a one for one credit for each unit satisfying the following criteria:

1. The unit shall have been constructed between April 1, 1980 and December 15, 1986. The municipality shall document the date of construction with a certificate of occupancy date;
2. The unit shall have been certified to be in sound condition as a result of an exterior inspection performed by a licensed building inspector;
3. The unit is currently occupied by a low or moderate income household. The municipality shall document household income eligibility with a certification of household income in a form adopted by the Council. Such certification shall be signed by a head of household. It shall be reviewable only by the Council or its staff and shall not be a public record;
4. If the unit is a for-sale unit, at the time the municipality files its petition for substantive certification, the unit shall have a market value that is affordable to a moderate income household pursuant to the requirements of N.J.A.C. 5:93-7.4(a) and (e). The market value of each such unit shall be no greater than a sales price determined by averaging the reported actual sale prices of three comparable housing units from the municipality that can be documented as being arms length, closed sales transactions and which occurred within one year of the date of the filing of the petition. Documentation sources for such sales may include county tax records. TRW REDI Property Data or other such sources, or multi-list records.
 - i. When determining a sales price pursuant to N.J.A.C. 5:93-7.4(e) for purposes of this paragraph, "interest" shall be the average 30 year fixed mortgage rate generally available within 30 days of the date of the municipal petition for substantive certification.

ii. When determining a sales price pursuant to N.J.A.C. 5:93-7.4(e) for purposes of this paragraph, "homeowner or condominium fees" shall be the fees chargeable to each such applicable unit on the date of the municipal petition for substantive certification; and

5. If the unit is a rental unit, at the time the municipality files its petition for substantive certification, the unit shall have a monthly rent that is affordable to a moderate income household pursuant to the requirements of N.J.A.C. 5:93-7.4(a) and (f) and the rental must be an arms length transaction.

(c) The application shall be in such a form and contain such information as the Council may require. Such information may include a questionnaire on household composition and unit type, a worksheet to calculate household income, a certification, an exterior survey and a sheet for listing comparables for each eligible unit.

Amended by R.1996 d.24, effective January 2, 1996.
See: 27 N.J.R. 3873(a), 28 N.J.R. 143(b).

5:93-3.3 Credits for housing activity subsequent to December 15, 1986

(a) A municipality shall receive a one for one credit for every low or moderate income unit constructed within its borders or within a receiving municipality as a result of an RCA that addresses its 1987-1993 housing need provided:

1. The unit has not been addressed in N.J.A.C. 5:93-2.14, Reduction; and
2. The unit complies with the criteria referenced in N.J.A.C. 5:93-3.1(e).

(b) A municipality shall also receive a rental bonus credit for every eligible unit of low and moderate income housing that meets the criteria in N.J.A.C. 5:93-5.15(d).

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
Substituted "RCA" for "regional contract agreement".

5:93-3.4 Rehabilitation subsequent to the 1990 census

(a) A municipality may receive credit for rehabilitation of low and moderate income substandard units performed subsequent to April 1, 1990.

(b) Units shall be eligible for crediting if:

1. They were rehabilitated up to the applicable code standard and that the average capital cost expended on rehabilitating the housing units was at least \$8,000; and
2. The unit is currently occupied by the occupants who resided within the unit at the time of rehabilitation or by other eligible low or moderate income households.

(c) Credits for rehabilitation shall not exceed the rehabilitation component and shall only be credited against the rehabilitation component.

5:93-3.5 Reductions for unbuilt housing

(a) Where land has been zoned for low and moderate income housing, the Council shall review sites for suitability and determine if the previously zoned sites present a realistic opportunity for low and moderate income housing before granting a reduction. In its review, the Council shall include but not be limited to a consideration of environmental factors, the location of existing infrastructure and the likelihood of the current zoning to result in the creation of low and moderate income housing during the period of substantive certification. Such a review shall result in a determination of the appropriate reduction and may result in requirements for zoning amendments.

(b) For previously certified sites that remain undeveloped, a municipality may propose an alternative zoning density and set aside as the result of a developer agreement. The Council shall certify each form of zoning and calculate the higher yield in addressing the fair share obligation. If the alternative zoning is exercised and there are unmet units, the Council shall not require the municipality to zone additional sites unless there are compelling reasons. Unmet units shall be addressed in the Council's third fair share cycle.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

5:93-3.6 Reductions for substantial compliance

(a) A reduction of the 1987-1999 inclusionary component of the calculated need shall be granted according to the following schedule when the Council determines that a municipality has substantially complied with the terms of its substantive certification, and has actually created, within the municipality or issued building permits for a substantial percentage of the new units that were part of the municipal 1987-1993 housing obligation within the period of substantive certification (as extended by a grant of interim substantive certification pursuant to N.J.A.C. 5:91-14.1(a)):

Percentage of Units		Reduction
<u>Completed</u>		
90+		20 percent
80-89		10 percent
70-79		5 percent

This reduction shall be based solely on the percentage of new low and moderate income units constructed within the municipality that received substantive certification or were the recipients of building permits. The percentage of units completed shall be determined by dividing the number of new low and moderate income units actually constructed or receiving building permits within the municipality by the number of low and moderate income units designated for construction within the municipality in the 1987-1993 fair share plan.

Amended by R.1995 d.491, effective September 5, 1995.
 See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
 Amended by R.1998 d.21, effective January 5, 1998.
 See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
 Inserted (f).

5:93-6.3 Credits

No receiving municipality shall receive credit towards its fair share obligation for units provided pursuant to an RCA, where credit for such units has been awarded to a sending municipality.

Amended by R.1995 d.491, effective September 5, 1995.
 See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

5:93-6.4 RCA recipient certification

A receiving municipality in an RCA may file an application with the Agency and with the county planning board or agency of the county in which the receiving municipality is located for RCA recipient certification. If the Agency and the county planning board or other agency determine that the receiving municipality has met the criteria delineated in N.J.A.C. 5:91-11.4, then the Agency and the county planning board or other agency shall recommend that the Council grant RCA recipient certification in at least one of four housing categories in N.J.A.C. 5:91-11.4(b).

New Rule, R.1998 d.21, effective January 5, 1998.
 See: 29 N.J.R. 3665(a), 29 N.J.R. 194(b).
 Former N.J.A.C. 5:93-6.4 recodified to N.J.A.C. 5:93-6.5.

5:93-6.5 Amount and duration of contributions

(a) In negotiating RCAs, cosmetic improvements may be included in determining the negotiated price of rehabilitating a housing unit. However, to be eligible for rehabilitation, a housing unit shall be substandard as defined in N.J.A.C. 5:93-1.3. Upon rehabilitation, housing deficiencies shall be corrected and the unit shall be brought up to code standard. The standard for evaluating rehabilitation activity shall be the local property maintenance code, or if none is available, the BOCA Property Maintenance Code, in effect at the time of evaluation (available from Building Officials and Code Administrators, Inc., 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795).

(b) A sending municipality shall transfer at least \$20,000 to a receiving municipality for each unit transferred as part of an RCA. This threshold has been established after consideration of:

1. The housing stock in New Jersey's urban municipalities;
2. The average cost of an RCA since 1986;
3. The maximum subsidies available under the Neighborhood Preservation Balanced Housing Program established pursuant to N.J.S.A. 52:27D-320; and
4. The average internal subsidization required for a developer to provide each low and moderate income unit within an inclusionary development.

(c) The receiving municipality may spend less than \$20,000 per unit in implementing the RCA, provided the remaining funds are used for an activity approved by the Council for addressing the low and moderate income obligation. Eligible activities shall include, but are not necessarily limited to, those activities outlined in N.J.A.C. 5:93-5.1.

(d) An RCA may be entered into at any time during the sending municipality's period of substantive certification but shall not exceed six years.

(e) All RCAs that include a scattered site rehabilitation program shall be structured so that the final transfer payment occurs within five years of the approval of the RCA. All rehabilitation activity shall occur within the sending community's period of substantive certification. Rehabilitation schedules shall be structured for completion within five years of the approval of an RCA. Rehabilitation schedules shall be subject to Council approval and shall not be structured to require a disproportionate share of rehabilitation during the latter portion of the five year period.

(f) For RCA scattered site rehabilitation programs, the cumulative cost of major systems shall be no less than \$8,000 per unit. After this \$8,000 threshold on major systems is met, additional repairs may be undertaken. RCA scattered site rehabilitation cost shall average no less than \$16,000 per unit.

Amended by R.1995 d.491, effective September 5, 1995.
 See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
 Recodified from N.J.A.C. 5:93-6.4 and amended by R.1998 d.21, effective January 5, 1998.
 See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
 Former N.J.A.C. 5:93-6.5 recodified to N.J.A.C. 5:93-6.6.
 Amended by R.1999 d.107, effective April 5, 1999.
 See: 30 N.J.R. 3719(a), 31 N.J.R. 868(a).
 Added (f).

5:93-6.6 Monitoring and enforcement

(a) All RCAs shall require receiving municipalities to file monitoring reports with the Council and with the Agency setting forth the progress in implementing the project to be produced under an RCA. This report shall be in such form as the Council and the Agency may from time to time require.

(b) The Council shall take such actions as may be necessary to enforce an RCA with respect to the timely implementation of a project by the receiving municipality. In implementing its enforcement responsibilities, the Council may:

1. Initiate or join a lawsuit to enforce an RCA;
2. Bar a delinquent receiving municipality from entering into further RCAs for a specified period of time;
3. Recommend that the Agency and DCA withhold further assistance available under the Act; and/or

4. Take such other actions as the Council may determine necessary, including ordering a sending municipality, for good cause, to temporarily or permanently cease payment to a receiving municipality.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Recodified from N.J.A.C. 5:93-6.5 and amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
Substituted "monitoring" for "annual" in (a).

SUBCHAPTER 7. INCLUSIONARY DEVELOPMENTS

5:93-7.1 Purpose and scope

The purpose of this chapter is to provide standards that pertain to the creation of low and moderate income housing units. The rules that follow shall pertain to all inclusionary developments, including those created as part of an RCA. This subchapter provides standards on: the distribution of low and moderate income units; bedroom distribution; and establishing the rents and prices of low and moderate income units.

Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).

5:93-7.2 Distribution of low and moderate income units

(a) With the exception of inclusionary developments constructed pursuant to the four percent low-income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least half of all affordable units within each inclusionary development shall be affordable to low income households.

(b) With the exception of inclusionary developments constructed pursuant to the four percent low income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least half of all affordable rental units shall be affordable to low income households.

(c) With the exception of inclusionary developments constructed pursuant to the four percent low income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least one-third of all affordable units in each bedroom distribution (pursuant to N.J.A.C. 5:93-7.3) shall be affordable to low income households.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).

5:93-7.3 Bedroom distribution

(a) Inclusionary developments that are not age restricted shall be structured in conjunction with realistic market demands so that:

1. The combination of efficiency and one bedroom units is at least ten percent and no greater than 20 percent of the total low and moderate income units;
2. At least 30 percent of all low and moderate income units are two bedroom units; and
3. At least 20 percent of all low and moderate income units are three bedroom units.

(b) Age restricted low and moderate income units may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age restricted low and moderate income units within the inclusionary development. The standard can be met by creating all one bedroom units or by creating a two bedroom unit for each efficiency unit. Applications to waive this standard shall be made in accordance with N.J.A.C. 5:93-15.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
Substituted "Age restricted low" for "low" and "restricted to senior citizens".

5:93-7.4 Establishing rents and prices of units

(a) The following criteria, in conjunction with realistic market information, shall be used in determining maximum rents and sale prices:

1. Efficiency units shall be affordable to one person households;
2. One bedroom units shall be affordable to 1.5 person households;
3. Two bedroom units shall be affordable to three person households; and
4. Three bedroom units shall be affordable to 4.5 person households.

(b) Median income by household size shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the households within the county. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households in each housing region. This quotient represents the regional weighted average of median income for a household of four. This regional weighted average is adjusted by household size based on multipliers used by HUD to adjust median income by household size. The maximum average rent and price of low and moderate income units within each inclusionary development shall be affordable to households earning 57.5 percent of median income. The municipal ordinance shall require moderate income sales units to be available for at least three different prices and low income sales units to be available for at least two different prices.

(c) In averaging 57.5 percent under (b) above, developers and/or municipal sponsors of rental units may establish one rent for a low income unit and one rent for a moderate income unit for each bedroom distribution.

(d) Municipal ordinances regulating owner occupied and rental units shall require that low and moderate income units utilize the same heating source as market units within the inclusionary development.

(e) Municipalities shall require that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of five percent, the monthly principal, interest, homeowner and private mortgage insurances, property taxes (property taxes shall be based on the restricted value of low and moderate income units) and condominium or homeowner fees do not exceed 28 percent of the eligible gross monthly income. Municipalities shall, by ordinance, require that master deeds of inclusionary developments regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at a specific percentage of those paid by market purchasers. The percentage that shall be paid by low and moderate income purchasers shall be at least one-third of the condominium or homeowner association fees paid by market purchasers. Once established within the master deed, the percentage shall not be amended without prior approval from the Council.

(f) Municipalities shall require that gross rents, including an allowance for utilities, be established so as not to exceed 30 percent of the gross monthly income of the appropriate household size referenced in (a) above. Those tenant-paid utilities that are included in the utility allowance shall be so stated in the lease. The allowance for utilities shall be consistent with the utility allowance approved by HUD for use in New Jersey.

(g) Low income housing units shall be reserved for households with a gross household income less than or equal to 50 percent of the median income approved by the Council. Moderate income housing units shall be reserved for households with a gross household income less than 80 percent of the median income approved by the Council. For example, a household earning 48 percent of median income may be placed in any low income unit; however, a household earning 53 percent may not qualify for a low income unit. A household earning 67 percent of median may be placed in any moderate income housing unit. A household earning less than 50 percent of median may be placed in a moderate income housing unit. Low and moderate income units shall not be offered to households that are not income eligible without Council approval pursuant to N.J.A.C. 5:93-9.16.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

SUBCHAPTER 8. DEVELOPMENT FEES

5:93-8.1 Purpose

(a) The New Jersey Supreme Court, in *Holmdel Builder's Ass'n v. Holmdel Township*, 121 N.J. 550 (1990) (issued December 13, 1990), determined that mandatory development fees are both statutorily and constitutionally permissible. The Court further anticipated that the Council would

promulgate appropriate development fee rules specifying, among other things, the standards for these development fees. The purpose of this subchapter is to provide such guidance.

(b) Except as otherwise provided in these rules, a municipality may only impose, collect and spend development fees through participation in the Council's substantive certification process or through a comprehensive review designed to achieve a judgment of repose. The exceptions to this rule are set forth in N.J.A.C. 5:93-8.3 through 8.6 inclusive. These exceptions are permitted because some communities have already received substantive certification; others have achieved a judgment of repose; and still others are litigating exclusionary zoning cases. Some of these municipalities have already collected fees. The Council has created a process for these municipalities to collect and/or retain fees. However, in the future, the ability to impose, collect and spend development fees shall be limited to municipalities that petition for substantive certification. Urban aid municipalities are also considered a special case. These municipalities have historically housed a disproportionate share of New Jersey's poor and, as a result, may have exceedingly high fair share obligations that would be extremely difficult to address in a six year period. Therefore, the Council will allow these municipalities to impose, collect and spend fees outside of substantive certification provided the municipality adheres to the rules in this subchapter. The rules that follow provide basic requirements for imposing, collecting and spending development fees. They then provide additional requirements for municipalities in various categories.

(c) While the rules that follow shall govern those municipalities that petition for substantive certification and urban aid cities, the Council will review development fee ordinances and plans to spend money upon the request of the court with jurisdiction in an exclusionary zoning lawsuit.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).

5:93-8.2 Basic requirements

(a) Except as set forth in N.J.A.C. 5:93-8.3 through 8.6 inclusive, the Council shall not review or approve any development fee ordinance unless the municipality has petitioned for substantive certification.

(b) No municipality except urban aid municipalities complying with N.J.A.C. 5:93-8.3, shall impose or collect development fees unless the municipality has adopted a housing element and the Council has approved its development fee ordinance.

(c) No municipality shall spend development fees unless the Council has approved a plan for spending such fees. With the exception provided for in N.J.A.C. 5:93-8.3, municipalities that have not received substantive certification or

a judgment of repose shall not spend development fees until they have received substantive certification or a judgment of repose.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).

5:93-8.3 Urban aid municipalities

Municipalities that qualify for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) may impose, collect or spend development fees by filing a development fee ordinance and spending plan and requesting approval by the Council. Council approval of the municipal development fee ordinance shall allow the municipality to impose and collect development fees for a period specified by the Council, not to exceed six years, commencing with the Council's approval of the development fee ordinance. Notwithstanding any other provision of this chapter, these municipalities shall have one year from the Council's approval of their development fee ordinance to submit a plan for spending development fees. These municipalities may impose, collect and spend development fees without petitioning for substantive certification.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).
Amended by R.1998 d.21, effective January 5, 1998.
See: 29 N.J.R. 3665(a), 30 N.J.R. 194(b).
Inserted language detailing development fees.

5:93-8.4 Municipalities that collected fees and received certification

(a) This rule deals with the category of municipalities that have collected development fees prior to December 13, 1990 and have received substantive certification. These municipalities may petition the Council to review and approve an ordinance regarding development fees collected prior to December 13, 1990. The Council may approve such ordinance, provided it conforms to the procedures in N.J.A.C. 5:93-8.8, Development fee ordinance review, and N.J.A.C. 5:91-15, Procedures for retaining development fees.

(b) The municipalities in this category shall not resume collecting development fees or spending development fees without conforming to N.J.A.C. 5:93-8.2.

(c) Notwithstanding any other provision of this chapter, the municipalities in this category shall submit plans to spend the development fees (regardless of when these fees were collected) prior to the expiration of their substantive certification periods.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

5:93-8.5 Municipalities that collected fees and are proceeding toward certification

(a) This rule deals with the category of municipalities that have collected development fees prior to December 13, 1990 and have petitioned for substantive certification. These municipalities may petition the Council to review and approve an ordinance regarding development fees collected prior to December 13, 1990. The Council may approve such ordinances provided they conform to the procedures in N.J.A.C. 5:93-8.8, Development fee ordinance review, and N.J.A.C. 5:91-15, Procedures for retaining development fees.

(b) The municipalities in this category shall not resume collecting development fees or spending development fees without conforming to N.J.A.C. 5:93-8.2.

(c) Notwithstanding any other provision of this chapter, municipalities in this category shall submit plans to spend the development fees and receive approval of these plans prior to receiving substantive certification.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

5:93-8.6 Municipalities that have not imposed or collected fees that have received substantive certification, or are proceeding toward substantive certification

(a) This rule deals with municipalities that have not imposed or collected development fees and that have received substantive certification or are proceeding toward substantive certification. Municipalities in this category shall not impose or collect fees until they have received the Council's approval of their development fee ordinance. No municipality in this category shall spend development fees unless the Council has approved a plan for spending such fees.

(b) Municipalities that have not received substantive certification shall submit plans for spending the development fees and receive approval for these plans prior to receiving substantive certification.

(c) Notwithstanding any provision of this chapter, municipalities in this category that have received substantive certification shall submit plans for spending the development fees prior to the expiration of the substantive certification period or period of repose.

Amended by R.1995 d.491, effective September 5, 1995.
See: 27 N.J.R. 2134(a), 27 N.J.R. 3329(a).

5:93-8.7 Other municipalities that have not imposed or collected fees

(a) Except as provided for in N.J.A.C. 5:93-8.3 through 8.6 inclusive, municipalities that have not imposed or collected fees shall not impose or collect fees until they have adopted a housing element, petitioned for substantive certification and received the Council's approval of their development fee ordinance.