

**CHAPTER 95**

**PROCEDURAL RULES OF THE NEW JERSEY  
COUNCIL ON AFFORDABLE HOUSING FOR THE  
PERIOD BEGINNING ON DECEMBER 20, 2004**

**Authority**

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

**Source and Effective Date**

R.2004 d.483, effective December 20, 2004.  
See: 36 N.J.R. 3851(a), 36 N.J.R. 5895(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 95, Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on December 20, 2004, expires on June 18, 2010. See: 41 N.J.R. 1563(a).

**Chapter Historical Note**

Chapter 95, Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on December 20, 2004, was adopted as R.2004 d.483, effective December 20, 2004. See: Source and Effective Date.

Subchapter 15, Transitional Procedures, was repealed and Subchapter 15, Transitional Procedures, Subchapter 16, Municipal Housing Liaison, Subchapter 17, Administrative Agent, Subchapter 18, RCA Administrator and Subchapter 19, Education Program, were adopted as new rules by R.2008 d.315, effective October 20, 2008. See: 40 N.J.R. 3370(a), 40 N.J.R. 5960(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

5:95-1.1 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 December 20, 2004."

(b) The purpose of this chapter is to establish procedures to be used by Buena Borough in Atlantic County, Washington Township in Morris County, and White Township in Warren County, for which substantive certification was granted by the Council prior to January 25, 2007 and upheld in *In re Adoption of N.J.A.C. 5:94 and 5:95 by the Council on Affordable Housing*, 390 N.J. Super. 1, certif. denied, 192 N.J. 71 (2007), 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 that did not receive third round substantive certification prior to January 25, 2007 shall be governed by the provisions of N.J.A.C. 5:96.

(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.

Amended by R.2008 d.146, effective June 2, 2008.

See: 40 N.J.R. 515(a), 40 N.J.R. 3161(a).

Rewrote (b) and (c).

5:95-1.2 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.).

"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.

"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 the State.

"Days" means calendar days.

"Fair Share Plan" means that plan that describes the projects, strategies and the funding sources, if applicable, by which a municipality proposes to address its fair share of affordable housing obligation as set forth in N.J.A.C. 5:94-2.4, and also includes the draft Fair Share ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:94.

"Filed Housing Element and Fair Share Plan" means the municipal submission of a Housing Element and Fair Share Plan accompanied by a duly adopted resolution from the governing body endorsing the Housing Element and the Fair Share Plan adopted by the planning board, but not necessarily including a request or petition for Council review or certification of the plan per N.J.A.C. 5:95-3.

"Housing Element" means that portion of a municipality's master plan, as required by N.J.S.A. 40:55D-28b(3), consisting of at least those items identified in N.J.S.A. 52:27D-310 and the supporting information pursuant to N.J.A.C. 5:94-2.2(b) when part of a petition for substantive certification.

"Housing region" means a geographic area, determined by the Council, of no less than two nor more than four contiguous, whole counties which exhibits significant social, economic and income similarities, and which constitutes to the