State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

FORD M. SCUDDER
Acting State Treasurer

MEMORANDUM

TO: Municipal & County Assessors and County Tax Administrators

FROM: Patricia Wright, Deputy Director, Property Administration

DATE: January 29, 2016

SUBJECT: Reinstitution of the Non-Residential Development Fee and Revised Form N-RDF

The following information has been promulgated by the Department of Community Affairs, Local Planning Services:

> "The Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 8.8, was established by P.L. 2008, c. 46. The first moratorium on the collection of the fee, which ended on July 1, 2010, was instituted by P.L. 2009, c. 90. The moratorium was extended by P.L. 2011, c. 122 for projects receiving site approval prior to July 1, 2013 and a construction permit as of January 1, 2015." *That moratorium extension has not been renewed by the New Jersey Legislature and is currently expired.*
>
> "Thus, as of July 1, 2013 all municipalities are required to impose a Non-Residential Development Fee of 2.5 percent of the equalized assessed value on projects receiving site approval after that date pursuant to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.6.
>
> The NRDF Certification/Exemption Form (Form N-RDF rev. 1/2016) has been updated to include an exemption for developments that received both appropriate site plan approval prior to July 1, 2013 and a construction permit prior to January 1, 2015. All previous exemptions or exclusions under the Non-Residential Development Fee Act remain."

If the developer is claiming an exemption from the Non-Residential Development Fee, the assessor is to determine if the exemption is justified. If not exempt, the assessor is to prepare an estimated assessment based on a review of the documentation submitted by the developer with the Construction Permit Application. When notified that the property is ready for a final assessment, the assessor is to enter the assessed value of the completed construction on the form and calculate the Non-Residential Development Fee due on the project.

If you have any questions, please contact the Division of Taxation at (609) 633-8443, (609) 633-2635, (609) 943-4401, or (609) 292-7202.

PW:KB

STATE OF NEW JERSEY NON-RESIDENTIAL DEVELOPMENT FEE CERTIFICATION/EXEMPTION

P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 et seq.)

SECTION A: To be completed by Developer

Name of Developer: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

Property Location

County: _____ Municipality: _____

Block: _____ Lot: _____ Qual.: _____

Street Address: _____

Date(s) on which Developer received preliminary and/or final site plan approval: _____

Construction/Demolition Permit Application Number: _____

Date on which Developer first sought construction or demolition permit (N.J.S.A. 40:55D-8.6): _____

Date on which Developer received construction/demolition permit: _____

Has the property been previously developed with a building, structure, or other improvement? _____

Exempt From or Not Subject to Fee [N.J.S.A. 40:55D-8.4] Check one if appropriate.

- ☐ Non-profit Educational Purposes
- ☐ House of Worship
- ☐ Parking lots and structures
- ☐ Non-profit hospital or nursing home facility relocation or improvement
- ☐ State, County, and local government buildings
- ☐ Transit Hub
- ☐ Transit Village
- ☐ Transit Hub-Light Rail
- ☐ Public amenity (recreational, community, senior centers) (Attach Planning Board approval)
- ☐ Commercial Farm or Use Group U Buildings and Structures
- ☐ Preliminary or final approval granted prior to July 1, 2013 and construction permit issued prior to January 1, 2015

Non-exempt status [N.J.S.A. 40:55D-8.6] Check one if appropriate.

- ☐ Prior payment or commitment for low and moderate income housing Amount paid: $ _____
- ☐ Non-residential planned development, subject to a development or redevelopment agreement entitled to a 1% fee
- ☐ Full Fee Due (2.5%)

IF AN EXEMPTION OR REDUCED PAYMENT IS CLAIMED, DEVELOPER MUST ATTACH PROOF OF SUCH CLAIM.

I, the undersigned, understand that this declaration and its contents may be disclosed or provided to the State of New Jersey and that any false statement contained herein may be punished by fine, imprisonment, or both. I further declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

Signature of Developer: _____

Name: _____

Title: _____ Date: _____

SECTION B: To be completed by Assessor

	Estimated			Final	
Assessed Value	$	E1		$	F1
Director's Ratio	%	E2		%	F2
Equalized Assessed Value	$	E3		$	F3
Existing Equalized Assessed Value – If new construction, use $0.00/NA.	$	E4		$	F4
Amount on Which Fee is Calculated	$	E5 (E3-E4)		$	F5 (F3-F4)
Non-residential Development Fee	$	E6 (E5 X 2.5%)		$	F6 (F5 x 2.5%)

Signature of Assessor: _____ Date: _____

Name: _____ Exempt: ☐

SECTION C: To be completed by municipality

Payment Amount (Amount should equal E6 or F6): $_____

Payment received by (name): _____

Signature: _____

Name: _____

Title: _____ Date: _____

GENERAL INSTRUCTIONS

Terms Defined:

"Non-profit educational purposes," means property which is tax exempt pursuant to N.J.S.A. 54:4-3.6.

An exempt "amenity" is an element "to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential Developer." If claiming this exemption Planning Board approval must be attached to this form.

"Urban transit hub" means property located within a 1/2 mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area. A property that is partially included within the radius shall only be considered part of the hub if over 50 percent of its land area falls within the radius. "Rail station" shall not include any rail station located in an international airport. Maps of Urban Transit Hubs can be found at:
http://www.njeda.com/about/Public-Information/Inactive-EDA-Programs/Urban-Transit-Hub-Tax-Credit-Program/

A "Transit Village" is an area in a municipality that has been designated by the State inter-agency Transit Village Task Force. More information on Transit Villages can be found at: http://www.state.nj.us/transportation/community/village/.

For Developers: The Developer is required to complete Section A (except Construction Permit Application number) and submit the form with the Construction Permit Application. Prior to claiming an exemption, credit, or 1% fee, the Developer should review the referenced statute and verify that it applies. If a reduced fee amount (1%) or credit is being claimed, substantiation of the claim (dated prior to the effective date of the Act, July 17, 2008) shall be provided and attached to the certificate, i.e., the redevelopment agreement, general plan approval, Developer's agreement, or proof of prior commitment of payment toward low and moderate income housing.

For Construction Official: The Construction Official is required to verify that Section A is fully completed, that the property and contact information provided are the same as those on the construction permit application. The Construction Official must verify that the form is signed by the Developer and fill in the Construction Permit Application Number. Once all information is accurate and complete, the Construction Official forwards the original form to the Assessor. If not accurate and complete, the Construction Official shall refuse to accept the form and must return it to the applicant.

For Assessor: The Assessor shall determine if a claimed exemption is justified. If the property is exempt, the Assessor shall check the "exempt" box at the bottom of Section B, sign and provide the original signed Form N-RDF to the Construction Official and a copy to the Developer. If not exempt, the Assessor, based on review of plans and conceptuals submitted with Construction Permit Application, shall prepare an estimated assessment of the property. The Assessor is responsible for completing the "Estimated" column of Section B (E1-E5) to determine the estimated Non-Residential Development Fee due (E6). If the development is new construction, then E4 and F4 should equal $0. If the development is situated on real property that was previously developed with a building, structure, or other improvement, E4 and F4 should show the existing equalized assessed value of the property as of the date listed in section A when the construction or demolition permit was first sought. The Assessor then provides a copy of the estimate to the Construction Official and the Developer, and retains original. The Construction Official's copy is to be filed in the Construction Permit Application File. Upon notification that the property is ready for a final assessment, the Assessor reviews the estimate, performs a final assessment and completes Section B, "Final" column (F1-F5) to determine final fee, F6.

For Payment Recipient and Construction Official: The Assessor is responsible for signing and providing the original NRD-F to the Construction Official, who files it in the Construction Permit Application file; the Assessor must also provide a copy to the Developer for use when making payment. If the municipality is participating in the Fair Housing Act process, payment is to be remitted to the town and Section C is to be completed as receipt of payment.

If the municipality is not participating in the Fair Housing Act process, payment is to be made to the Treasurer, State of NJ, and the Developer is to input information electronically and receive confirmation in similar format. When preparing to issue Certificate of Occupancy (CO), the Construction Official is to compare the Developer's receipt to the copy in the Construction Permit File, and if they match, issue the CO.

If the fee imposed is being contested, the payment must equal the amount in E6; if it is not being contested, payment must equal the amount in F6. If payment does not match the final or the estimated fee, a CO will not be issued. (For a limited period after the enactment of the Act, the amount listed in E6 and F6 may differ from the fee paid, if the Developer is entitled to a credit pursuant to N.J.S.A. 40:55D-8.6(c) or payment of a 1% fee pursuant to N.J.S.A. 40:55D-8.6(a)). This credit or reduced fee will be indicated in Section A.

Appeals: A Developer may challenge Non-Residential Development Fees imposed pursuant to N.J.S.A. 40:55D-8.1 et seq. by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the municipality or by the State, as the case may be. Appeals from a determination of the Director may be made to the Tax Court of New Jersey in accordance with the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

Moratorium Lifted, Fee Re-Imposed: A moratorium on Non-Residential Development Fees that was extended by P.L. 2011, c. 122, has **not** been renewed prior to the expiration of those provisions. Non-residential projects not meeting the criteria for exemption in N.J.S.A. 40:55D-8.4 or N.J.S.A. 40:55d-8.6 are subject to the Non-Residential Development Fee.