



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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Property Administration
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**TO: MUNICIPAL ASSESSORS AND
COUNTY TAX ADMINISTRATORS**

**FROM: MAUREEN ADAMS, DIRECTOR
DIVISION OF TAXATION**

**JOSEPH V. DORIA, JR., COMMISSIONER
DEPARTMENT OF COMMUNITY AFFAIRS**

**SUBJECT: A500 ON AFFORDABLE HOUSING PASSES BOTH
HOUSES OF THE NEW JERSEY LEGISLATURE**

Assembly Committee Substitute for Assembly Bill A500, "An Act concerning affordable housing, revising and supplementing various parts of the statutory law" recently passed both houses of the Legislature. Companion bill S1783 was substituted by A500. A500 now awaits the Governor's signature. When enacted, this bill becomes effective immediately. The Division is informing you of the provisions of this bill which, when signed into law, have **immediate impact** on our collective job responsibilities. Please review this bill at <http://www.njleg.state.nj.us> by clicking on the specific bill number, A500. The Department of the Treasury is working with the Department of Community Affairs on uniform methods for implementing the non-residential development fee including calculation, collection, and appeal procedures.

The portions of this bill that impact assessors are found in Section 35, paragraph e. outlining the procedure and timing for the calculation of this new development fee (Pages 47-52). The following are highlights of these new provisions and how Treasury and Community Affairs are attempting to address them:

- The law requires the construction official responsible for issuing building permits to notify the assessor of the issuance of the first building permit for a development that may be subject to a non-residential development fee. Within 90 days of receipt of that notice, the assessor provides an estimate of the equalized assessed value of the non-residential development based on the plans filed. The construction official responsible for the issuance of a final certificate of occupancy (CO) shall notify the assessor of any and all requests for the scheduling of a

final inspection on property which may be subject to a non-residential development fee.

- The assessor, within 10 business days of a request for the scheduling of a final inspection, shall *“confirm or modify the previously estimated equalized assessed value of the improvements of the non-residential development in accordance with the regulations adopted by the Treasurer pursuant to P.L. 1971, c. 424 (C. 54:1-35.35), calculate the non-residential development fee...and thereafter notify the developer of the amount of the non-residential development fee.”*
- The Departments will adopt regulations which provide guidance on communication between assessors and code officials, but regulations will not be completed by the time A500 is enacted into law. Please begin discussions with your code official to identify all applicable non-residential development effectively and efficiently.
- The provisions of the new law shall not be construed in any manner as affecting the method or timing of assessing real property for property taxation purposes. The payment of a non-residential development fee shall not increase the equalized assessed value of any property.
- The State Division of Revenue is endeavoring to have a portal established to accept electronic payment and issue confirmation by the time this bill becomes law.
- In municipalities that are under the Council on Affordable Housing’s jurisdiction pursuant to the Fair Housing Act, developers will continue to pay fees directly to municipalities for deposit into the municipality’s Affordable Housing Trust Fund in accordance with COAH’s regulations and pursuant to the bill.
- The Division of Taxation is working with the Department of Community Affairs to establish a form for this process. The form will be developed on the basis of the experience of numerous communities that have been imposing and collecting development fees under the Council on Affordable Housing regulations. A draft of this procedure is outlined as follows:
 1. The construction official provides the assessor with a one page form/certification. The developer completes the first section, which identifies the property and contains a sworn statement as to whether the developer is claiming an exemption from the fee. The construction official will receive the form with the completed identifying information and forward it to the assessor at the time the first construction permit is requested.
 2. The assessor then completes the next section with estimated and final assessed values, equalized assessed values, and developer fee. The final developmental fee that the assessor will

complete is calculated by multiplying the equalized assessed value by 2.5%.

3. The completed form/certification will be provided to the construction official and developer.
4. Upon receipt of the form, it is the developer's responsibility to tender payment and provide the construction official with confirmation that payment was made. This will either be in the form of a receipt from the municipality or a printed confirmation from the Treasurer.
5. The construction official then compares the form which the assessor provided with the receipt. If the form matches the receipt, the construction official may issue the certificate of occupancy (CO).

As used in the proposed law (refer to Section 34), "equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c)." The applicable average ratio can be found on the Division of Taxation's Internet Website at <http://www.state.nj.us/treasury/taxation/lpt/lptvalue.htm>.

The bill also contains provisions wherein a developer may challenge the imposition of the non-residential development fees by filing a challenge with the Director of the Division of Taxation.

Since it is possible that the final version of this bill as signed by Governor Corzine may contain modifications and amendments to the existing bill, an updated instructional memo will follow upon enactment.

Enclosed with this memorandum is a copy of the letter that is being sent to local construction officials by the Department of Community Affairs, Division of Codes and Standards.

MA: GDC

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.

- | | | |
|--|--|---|
| <input type="checkbox"/> Non-profit Educational Purposes | <input type="checkbox"/> Transit Hub | <input type="checkbox"/> Transit Village |
| <input type="checkbox"/> House of Worship | <input type="checkbox"/> Parking lots and structures | <input type="checkbox"/> Transit Hub-Light Rail |
| <input type="checkbox"/> Non-profit hospital or nursing home facility relocation or improvement | <input type="checkbox"/> Public amenity (recreational, community, senior centers) (Attach Planning Board approval) | |
| <input type="checkbox"/> State, County, and local government buildings | <input type="checkbox"/> Commercial Farm or Use Group U Buildings and Structures | |
| <input type="checkbox"/> 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	
Project's Assessed Value of Land & Improvements	\$	E1	\$	F1
Director's Ratio	%	E2	%	F2
Project's Equalized Assessed Value of Land & Improvements	\$	E3 (E1 ÷ E2)	\$	F3 (F1 ÷ F2)
If there are pre-existing improvements on the property, enter the equalized assessed value of land & improvements on this line; If new construction on vacant land, enter \$0.00 or NA on this line	\$	E4	\$	F4
Amount on which fee is calculated (if new construction on vacant land, will be the value of land & improvements of the final development; if there are pre-existing improvements on the property, will be the value of new improvements only)	\$	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/>.

IMPORTANT: N.J.S.A. 40:55D-8.4(a) establishes two different assessments of the Non-Residential Development Fee, one for new non-residential construction on vacant land and one for structural additions on sites with existing improvements. When the land being developed is vacant, the Non-Residential Development Fee is 2.5% of the value of land and improvements of the final development. When the land being developed already has existing improvements, the Non-Residential Development Fee is 2.5% of the value of the new improvements of the final development only; the land value and value of existing improvements are excluded from the calculation of the fee.

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 conceptuials 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). E1 should be the **estimated** assessed value of land and improvements of the final development. E2 should be the Director’s Ratio for the municipality. E3 should be the **estimated** equalized assessed value of the land and improvements of the final development on the site ($E1 \div E2$).

If the development is new construction on vacant land, the Non-Residential Development Fee is assessed on the value of the land and improvements of the final development, and 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, the Non-Residential Development Fee is assessed on the value of the new improvements only, without including the value of the land or the existing improvements, and E4 and F4 should show the existing equalized assessed value of the land and improvements 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. F1 should be the actual assessed value of the land and improvements at completion, F2 should be the Director’s Ratio at the time of completion of the project, and F3 should be the equalized assessed value of land and improvements at completion ($F1 \div F2$).

For Payment Recipient and Construction Official: The Assessor is responsible for signing and providing the original N-RDF 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 mailed to: Local Planning Services, Attn: Sean Thompson, 101 South Broad Street, PO Box 813, Trenton, NJ, 08625-0813. 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.