

NRDF Moratorium FAQ

Can our municipality go back to charging the COAH-approved non-residential development fee we had in effect prior to July 17, 2008, or is no fee due? A municipality cannot charge new non-residential development fees under a development fee ordinance approved prior to July 17, 2008 where preliminary or final site plan approvals were granted after July 17, 2008. However, if a preliminary or final site plan approval was granted prior to July 17, 2008, and said approval includes a requirement for a non-residential development fee under a COAH or Court approved development fee ordinance, that fee can still be collected (i.e. 1% or 2%), provided building permits are issued for the development prior to January 1, 2013. After January 1, 2013, the fee reverts to 2.5%.

Is interest due to the developer? No, P.L.2009, c.90 does not require that the interest be returned.

Do municipalities apply for re-imbursement from the State only if they spent or committed the funds due to be returned? No, a municipality can request reimbursement from the State for any non-residential fee that is returned at the request of the developer, provided the municipal request is submitted to COAH by March 30, 2010.

If my town refunds a development fee to the developer, how does the refund effect the growth share obligation for that development? If the municipality requests reimbursement from the State for a refunded development fee, no later than March 30, 2010, and a reimbursement from the \$15 million appropriation is granted, the non-residential growth share obligation would remain. If the municipality does not request reimbursement by March 30, 2010, the obligation would remain. If the municipality requests reimbursement from the State by March 30, 2010, but insufficient funds are available, the non-residential development would be excluded from the actual growth share obligation. Guidance will be provided at a future date as to COAH's determination, in consultation with DCA, of insufficient funds and the availability of State or federal housing subsidies pursuant to P.L.2009, c.90.

If a development received preliminary or final approval prior to July 17, 2008 with a commitment to pay a development fee, but the developer has not yet made a payment, are they still obligated to make the payment? Yes, the municipality can charge the remaining fee based on the original requirement (i.e. 1% or 2%).

Which non-residential development fees are eligible to be refunded based on the request a developer makes by November 30, 2009? If the non-residential developer received approval with a requirement for a non-residential development fee prior to July 17, 2008, they are only entitled to a refund of the difference between the originally required fee (probably 2%) and the 2.5% fee (if paid). Similarly, fees paid prior to July 17, 2008 are not eligible to be refunded. If the developer received approval after July 17, 2008, they can ask for a refund of any portion of the 2.5% fee that was paid.

Is there a form a developer must use in order to request a refund? Is there a form a municipality must use to request a reimbursement from the State? Yes, an N-RDF Claim Form with instructions is available on COAH's website at www.nj.gov/dca/affiliates/coah/regulations/nrdf.