

CHAPTER 36
DEVELOPMENT AND REDEVELOPMENT
ACTIVITIES

Authority

N.J.S.A. 40:55D-53a and 52:27BB-10.

Source and Effective Date

R.2005 d.81, effective February 22, 2005.
See: 36 N.J.R. 4571(a), 37 N.J.R. 667(a).

Chapter Expiration Date

Chapter 36, Development and Redevelopment Activities, expires on February 22, 2010.

Chapter Historical Note

Chapter 36, Management Assistance Program, was adopted by R.1978 d.365, effective October 16, 1978. See: 10 N.J.R. 470(b).

Pursuant to Executive Order No. 66(1978), Chapter 36, Management Assistance Program, was readopted and recodified as Chapter 51, Management Assistance Program, by R.1983 d.443, effective September 27, 1983. See: 15 N.J.R. 1305(a), 15 N.J.R. 1759(a).

Chapter 36, Development and Redevelopment Activities, was adopted as a new rules by R.2005 d.81, February 22, 2005. Subchapter 3, New Residential Construction Off-Site Conditions Disclosure, was recodified from Chapter 38 by R.2005 d.81, effective February 22, 2005, and expires September 18, 2008; Subchapter 4, Standardized Forms for Performance Guarantees, was recodified from Chapter 39 by R.2005 d.81, effective February 22, 2005 and expires July 16, 2006. See: Source and Effective Date.

Subchapter 4, Standardized Forms for Performance Guarantees, was readopted by R.2006 d.236, effective May 26, 2006. See: 38 N.J.R. 1367(a), 38 N.J.R. 2795(b).

Subchapter 3, New Residential Construction Off-Site Conditions Disclosure, was readopted as R.2008 d.193, effective June 18, 2008. See: 40 N.J.R. 1731(a), 40 N.J.R. 4315(a).

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SUBCHAPTER 1. REVENUE ALLOCATION DISTRICTS AND FINANCING PLANS

5:36-1.1 Purpose; fees

(a) This subchapter sets forth rules for local government units to follow when applying to the Local Finance Board for approval of a Revenue Allocation District and Financing Plan. The rules are established to:

1. Ensure that the creation of the district complies with the State's smart growth planning requirements and is not in conflict with State development rules; and
2. Ensure that projects are economically and fiscally responsible and would not otherwise be feasible without creation of the Revenue Allocation District.

(b) The Board shall charge the applicant fees sufficient to provide for all reasonable professional and related expenses the Board expects to incur for the review, analysis and determination of all elements of the application process.

(c) An application under this section is not subject to the provisions of N.J.S.A. 52:27D-10.5 et seq.

(d) Circumstances or conditions not addressed by these rules shall be subject to review and determination by the Chair of the Local Finance Board.

5:36-1.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Applicant" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the Federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to N.J.S.A. 40A:12A-1 et seq. and the municipality so provides, the redevelopment agency or entity so established, or any duly appointed district agent acting on behalf of a municipality or redevelopment agency.

"Application process" means the three step process required for approval of a Revenue Allocation District. The three steps include:

1. Application for approval to create a Revenue Allocation District and Preliminary Revenue Allocation Plan;
2. Approval of a Final Revenue Allocation Plan; and
3. Approval of financial instrument.

The process also includes an optional initial step in which an applicant may request a RAD Plan assessment.

“Assessment” means the process by which the applicant provides information about the project to the Board and other State agencies and receives feedback concerning the application including its consistency with smart growth principles.

“Board” means the Local Finance Board in the Division of Local Government Services and the staff of the Board acting on the Board’s behalf.

“Office of Smart Growth” or “OSG” means the Office of State Planning established pursuant to section 6 of P.L. 1985, c.398 (N.J.S.A. 52:18A-201).

“Revenue Allocation District” or “RAD” means the area or areas within a municipality designated pursuant to the Revenue Allocation District Financing Act, N.J.S.A. 52:27D-459 et seq.

“Smart growth” means well-planned, well-managed growth that adds new homes, creates new jobs, and promotes redevelopment and urban revitalization, while preserving open space, farmland, and environmental resources as set forth in the State Development and Redevelopment Plan adopted by the State Planning Commission pursuant to the State Planning Act, N.J.S.A. 52:18A-196.

5:36-1.3 Optional RAD Plan assessment

(a) Any applicant planning a RAD may file for a RAD Plan assessment pursuant to this section.

(b) Notice of Intent: An applicant requesting a RAD Plan assessment shall file a Notice of Intent with the Board no less than 30 days prior to requesting a RAD Plan assessment as follows:

1. The Notice of Intent shall be in the form of a letter advising the Board of the applicant’s intention to file a RAD Plan Assessment. The notice shall designate a single point of contact for the applicant;
2. Following the applicant’s filing of the Notice of Intent, the applicant will be contacted by a Board representative to attend a meeting to review the planned filing; and
3. It is strongly recommended that potential applicants file a Notice of Intent as early in their planning process as possible.

(c) RAD Plan Elements: After 30 days from the date the Notice of Intent was filed with the Board, an applicant shall submit a RAD Plan. A complete RAD Plan shall include the following elements:

1. A detailed description of the district and planned projects, including maps, projected life of the district, plans and other documentation that describes the scope of the effort;
2. An impact assessment including a description of the planned RAD’s impact on land use, transportation, environmental, economic, utility, and quality of life issues;
3. A “Smart Growth Questionnaire.” Applicants will be provided a questionnaire that will enable State agencies with growth and development review responsibilities to assess the RAD Plan. The questionnaire shall require the applicant to describe the project and its conformance with the State Development and Redevelopment Plan, and to relate the project’s impact on transportation systems, local utilities, the environment, agriculture, the labor market, municipal planning and zoning, population growth, and quality of life issues. The agencies will provide the Board with a written report describing the impact of State regulations on the proposal; and
4. Public notice requirements. The Board recommends that applicants bring the details of the potential application to the attention of their county government and planning board, constituent boards of education and authorities, and bordering counties and municipalities to obtain their input and comments.

(d) Agency review and conference: Upon submission of a complete RAD Plan, a review and conference shall be conducted as follows:

1. The Board shall distribute the RAD Plan to relevant State agencies. The agencies shall review the proposal and shall submit a report to the Board with their comments;
2. The Board shall have the reports from the individual agencies consolidated into a single “Smart Growth Report.” The Board shall provide the Report to the applicant within 60 days of the submission of the RAD Plan pursuant to (c) above;
3. The Board shall hold a Smart Growth Report Conference with the applicant and the relevant State agencies within 30 days after the submission of the Smart Growth Report to the applicant;
4. An applicant may consider revisions and may choose to enter into negotiations with agencies to address or resolve issues raised by the Report;
5. If the applicant decides to make substantive changes to the proposal, such as a change to the physical RAD boundaries or changes in the size or scale of the project, the applicant may submit a revised Plan. Revisions made to