



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**Subject**  
SYSTEM BENEFIT CHARGE

**Number**  
9-99

**Originating Department:**  
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

**Effective Date**  
July 1, 1999

## SYSTEMS BENEFIT CHARGE - NONRESIDENTIAL OFFICE OF THE COUNTY EXECUTIVE

Issued by: County Executive  
Regulation No. 9-99

Authority: Montgomery County Code, 1994, Sections: 48-8 and 48-8A  
Supersedes: 7-98

Council Review: Method (2) under Code Section 2A-15  
Register Vol. 16, No. 5

Effective Date: July 1, 1999  
Comment Deadline: May 31, 1999

**Summary:** This regulation amends Regulation 7-98 by making technical clarifications and changes to the appeals procedure including the information required to be provided and by allowing additional time for applicants to respond to County requests for additional information required in order to process appeals.

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Rockville, Maryland 20850

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Background: Bill No. 42-92 established a solid waste service charge known as a solid waste system benefit charge to be imposed on owners of all real property, both residential and nonresidential, as Generators of solid waste. The system benefit charge was enacted to provide more specifically and equitably for the collection of solid waste charges. Executive Regulation 14-95 adopted July 1, 1995, established the method of collecting nonresidential systems benefit charges. Montgomery County Code 1994, Section 48-8A(b)(3) provides for the imposition of the Nonresidential systems benefit charge. The charge may be imposed and collected via a dumpster registration and calculation of a Nonresidential systems benefit charge related to dumpster volume and frequency of collection. Montgomery County Code 1994, Section 48-8A(b)(3)(E) provides that an alternative method of calculating and collecting the Nonresidential systems benefit charge may be established by Executive Regulation using method (2). Section 48-8A(b)(3)(E) further provides that a reasonable unit of measurement may include one involving the gross floor area of a nonresidential building and reasonable estimates of the amount of solid waste produced annually at buildings of a similar type or similar land use.

Section 1. Definitions. For the purposes of this regulation, the definitions contained in Montgomery County Code 1994, Section 48-1 and the definitions stated below apply:

- A. "County" means Montgomery County, Maryland.
- B. "Department" means the Department of Public Works and Transportation or any successor department administering the provisions of Chapter 48 of the Montgomery County Code.
- C. "Director" means Director of the Department.
- D. "Generator category" means one of the solid waste Generator categories established in Section 2.C(2) of this regulation.
- E. "GFA unit" means the gross floor area of an improvement on real property divided by 2000. To determine the number of GFA units, the quotient is rounded to the nearest increment of 2000 whole number. Fractions of lower than .5 are to be rounded downward and fractions of .5 and



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higher are to be rounded upward. Each real property will have a minimum of 1 GFA unit, (i.e., 500 square foot = 1 GFA unit).

F. "MSDAT" means the Maryland State Department of Assessments and Taxation.

G. "Nonresidential systems benefit charge" means the systems benefit charge imposed upon nonresidential generators of solid waste in the County.

H. "Nonresidential systems benefit charge rate" means the rate or rates established by the County Council to establish and collect the Nonresidential systems benefit charge.

Section 2. Method of calculating and collecting the Nonresidential systems benefit charge. This regulation establishes an alternative method of calculating and collecting the Nonresidential systems benefit charge. The method of calculating and collecting the Nonresidential systems benefit charge is based upon gross floor area and land use types as this information is maintained by the MSDAT.

A. **Imposition of Nonresidential systems benefit charge.** The Nonresidential systems benefit charge is imposed on the owners of all nonresidential real property in the County upon which improvements having an assessed value of greater than Five Thousand Dollars (\$5,000.00) have been placed.

B. **Collection of the Nonresidential systems benefit charge.** The Nonresidential systems benefit charge may be billed with the tax bill and collected along with taxes on real property. For improvements that are completed after the beginning of a fiscal year, the Nonresidential systems benefit charge may be billed based upon a partial year. If Nonresidential systems benefit charges are not billed with the tax bill for any reason, the bill must indicate the portion of the year covered by the invoice. Nonresidential systems benefit charges that are not billed with the taxes are payable within thirty (30) days of the bill date. The remedies for nonpayment of the Nonresidential systems benefit charge are as specified in Montgomery County Code 1994, Chapter 48.

C. **Calculation of Nonresidential systems benefit charge.**

(1) Each year the Department must obtain from MSDAT a copy of its schedule of Nonresidential property within the County and MSDAT's land use and gross floor area determinations for all Nonresidential property in the County.



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(2) Each year the Department must make a determination of which of the following five waste disposal Generator categories a particular type of land use falls within:

- (A) Low generator                      0 to 2 lbs./sq. ft.
- (B) Medium low generator            >2 to 4 lbs./sq. ft.
- (C) Medium generator                >4 to 6 lbs./sq. ft.
- (D) Medium high generator          >6 to 8 lbs./sq. ft.
- (E) High generator                    >8 lbs./sq. ft.

(3) The Department must make its determination of which of the foregoing five generator categories a particular land use falls within by referring to the most current solid waste generation study conducted by the County. If no current study is available, the Department may base this classification on solid waste generation studies from other jurisdictions provided that the Department takes into consideration any fluctuations in generation rates that might relate to demographics or geographic location of the jurisdiction(s) in which the study(ies) had been conducted. The Department must compare the consistency of the studies of other jurisdictions to information it has about solid waste generation within the County and make adjustments as it deems necessary. The Department must conduct periodic solid waste generation studies at least every five years to determine in which Generator category a particular land use falls. The Department must, within two years of the adoption of this regulation, conduct an initial solid waste generation study.

(4) The Department must by June 1 of each year publish in a newspaper of general circulation in the County a table showing: 1) land use types as maintained by the MSDAT; and 2) the Generator category within which each land use type falls. The table must also be provided for inspection by June 1 of each year at each of the libraries in the County.

(5) Each year the Department must recommend to the County Council the Nonresidential systems benefit charge rate applicable to each Generator category. The rate is to be established by resolution of the County Council as prescribed in Chapter 48. The Department's recommendation of the Nonresidential systems benefit charge rate for the Generator categories must be based upon the following ratio:



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- (A) low generator - low generator rate/medium generator rate - .2
- (B) medium low generator - medium low generator rate/medium generator rate - .6
- (C) medium generator - 1.0
- (D) medium high generator - medium high generator rate/medium generator rate - 1.4
- (E) high generator - high generator rate/medium generator rate - 1.8

These categories may be subject to change as a result of findings of future waste generation studies.

(6) For the purpose of calculating the Nonresidential systems benefit charge, the gross floor area of improvements on Nonresidential real property is to be expressed in terms of GFA units. For example, if a property has improvements with a gross floor area of 1-3000 square feet, the total GFA units for that property is 1. If a property has improvements with a gross floor area of 3001 - 5000 square feet, the total GFA units for that property is 2. If a property has improvements with a gross floor area of 5001 - 7000 square feet, the total GFA units for that property is 3.

(7) The total Nonresidential systems benefit charge to be paid by a property owner is determined by multiplying the Nonresidential systems benefit charge rate for the Generator category by the number of GFA units attributable to the gross floor area of improvements located on the Nonresidential real property. For example, if a retail store of 10,000 square feet is in the medium Generator category, and the Nonresidential systems benefit charge rate for that category is \$200 per GFA unit, the Nonresidential systems benefit charge would be \$200 x 5 GFA units = \$1,000.00.

#### D. Appeals process.

(1) **RIGHT TO APPEAL.** A property owner may on or before September 30 of the billing year, appeal, in writing, to the Director, with a copy to the Director, Department of Finance, for reconsideration of: 1) the Generator category determination; and/or 2) the gross floor area of improvements used as the basis for determining the number of GFA units. Partial year billings may be appealed within 60 calendar days of the billing date. Only the property owner or an agent duly authorized in writing by the property owner for the purpose of the appeal, may file an appeal for any given property. The appeal must be submitted using the form provided by the Department for the subject Levy Year. The Department will mail a current year form to any owner or agent requesting one.



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(2) **INFORMATION TO INCLUDE WITH APPEAL.** The property owner must include with the appeal a detailed statement of the basis for the appeal and documents supporting the property owner's assertion that 1) the property should be included in a different solid waste Generator category; and/or 2) the gross floor area used to calculate GFA units is incorrect. If the property owner has challenged the solid waste Generator category in which the property has been placed, the documents provided by the owner must include evidence reflecting all of the waste generation at the property, including, but not limited to: invoices for the most recent twelve months of service from the solid waste collector(s) for the property. If such invoices do not state the net weights of waste from the property according to weight tickets issued from state certified calibrated scales, then the application must also include copies of the contracts relating the dumpster volumes and frequency of service to the invoiced amounts. State certification of scale calibration must have occurred in the year in which the appeal was filed. Affidavits stating an estimate of tonnage are not acceptable unless accompanied by weight readouts from calibrated scales. If invoices for waste collection do not exist, the applicant must certify this, and the Department may inspect the property and/or require additional information under (3) below in order to estimate its waste generation rate. If the property owner has challenged the gross floor area used to calculate GFA units, the documents provided must include evidence of the actual gross floor area on the property from assessor's worksheets at MSDAT or from architectural plans filed at the Montgomery County Department of Permitting Services.

(3) **DIRECTOR'S RIGHT TO INCLUDE ADDITIONAL INFORMATION.** The Director may request that the property owner provide additional information which the Director reasonably believes will assist the Director in deciding the appeal. The Department may also inspect the property for reasons consistent with this regulation. If the property owner fails to provide the information within twenty-five calendar days of the date of the Director's request, or denies the Department access to the property for an inspection pursuant to this regulation, the Director may dismiss the appeal.

(4) **WRITTEN DETERMINATION OF APPEAL.** The Director must make a written determination of the appeal that includes findings supporting the Director's determination. The written determination of the appeal must be mailed to the property owner by first class mail with a copy provided to the Director, Department of Finance. Other than dismissal of an appeal for the reason stated in subparagraph (3) above, the determination must either affirm the total Nonresidential systems benefit charge or adjust it based upon evidence presented. The adjustment may decrease or increase the Nonresidential systems benefit charge imposed on the property owner.



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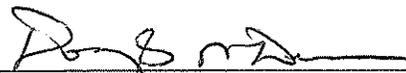
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In the case of an adjustment of the Generator category, and provided there are no changes in the use of the property, the decision of the Director is valid for three years including that in which the appeal takes place. The Nonresidential systems benefit charge rate established by County Council resolution is not subject to appeal to the Director.

(5) PAYMENT OF NONRESIDENTIAL SYSTEMS BENEFIT CHARGE FOLLOWING APPEAL. The property owner must pay the Nonresidential systems benefit charge at the same time as real property taxes are due. Payment of the full nonresidential systems benefit charge should be paid by the due date stated on the bill in order to avoid interest and penalty. If the appeal results in a change, a revised bill will be issued. If the bill is decreased, a refund will be mailed for any overpayment. If an additional payment is due, the property owner will have thirty (30) days to pay the additional amount without interest or penalty.

Section 3. Severability. If any portion of this regulation has been determined by a court of competent jurisdiction to be inapplicable, the remainder of the regulation remains in full force and effect.

  
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Douglas M. Duncan  
County Executive