



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Housing at Metrorail Stations Act: Payments in Lieu of Taxes - WMATA	Number 6-21
Originating Department Department of Finance	Effective Date

Montgomery County Regulation on:

HOUSING AT METRORAIL STATIONS ACT

Department of Finance

Issued by: County Executive

Regulation No. 6-21

COMCOR No. 52.24A.00

Authority: Montgomery County Code, Chapter 52 Section 52-24A

Council Review: Method (1) under Code Section 2A-15

Register Vol. 38, Issue 3

Comment Deadline: March 31, 2020

Effective Date:

Sunset Date: December 31, 2032

SUMMARY:

This regulation establishes the procedure to administer and implement the Housing at Metrorail Stations Act, pursuant to adoption of Bill 29-20 and specifies (a) requirement by the developer of the qualifying project, as a condition of receiving payment in lieu of taxes under subsection (c) of Bill 29-20, to agree in writing that to the best of its knowledge, information, and belief: (1) none of the contractors or subcontractors hired to perform work on the qualifying development site had three (3) or more final, non-appealable penalties assessed against it in the amount of \$5,000 or more in the 3 years prior to being hired for the project for violations of applicable wage and hour laws, including the County's prevailing wage law and any applicable Maryland wage and hour laws; and (2) at least 25% of the workers constructing the qualifying project were residents of the County while performing the work; (b) the requirement of the developer to provide quarterly reports to the Executive during construction demonstrating compliance with the conditions for receiving a payment in lieu of taxes.

ADDRESS:

Written comments on this regulation should be sent to:
David Crow
Fiscal Projects Manager, Division of Fiscal Management
Department of Finance
101 Monroe Street, 15th Floor
Rockville, MD 20850



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STAFF CONTACT: For further information or to obtain a copy of this regulation, please contact David Crow at (240) 777-8859

COMCOR 52.24A.00.01 General Provisions

- (a) Authority. In accordance with the authority conferred under Chapter 52 Taxation, Article I, General of the Montgomery County Code, the County Executive hereby promulgates this regulation to administer and implement the Housing at Metrorail Stations Act (“Act”) in Montgomery County, Maryland.
- (b) Applicability. The Act requires the Director of Finance to negotiate a payment in lieu of taxes for qualified development on Washington Metropolitan Area Transit Authority (“WMATA”) property. The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years but must not include an exemption for any tax levied under an applicable special taxing area law.

COMCOR 52.24A.00.02 Definitions

The definitions of terms used in this regulation are set out in Chapter 52, Section 52-24A, of the County Code. For purposes of this regulation, the following words and phrases have the following meanings unless the context clearly indicated otherwise:

- (a) Area median income or “AMI” means the median household income for the Washington, DC metropolitan area as estimated by the U.S. Department of Housing and Urban Development.
- (b) Developer means a business entity that:
 - (1) is in good standing with the State of Maryland;
 - (2) leases land from WMATA at a metro station; and
 - (3) builds, owns, or manages a qualifying development on the leased land.
- (c) Property means one or more parcels of real property which contain a qualifying development pursuant to Chapter 52-24A of the County Code.



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COMCOR 52.24A.00.03 PILOT Agreement

For a developer to receive an abatement for property taxes on the property, as calculated at 100% of the County's real property tax due on the leased property for a period of fifteen (15) years, a developer must enter into a Payment In Lieu Of Taxes ("PILOT") Agreement with the County. The PILOT Agreement shall include the following requirements:

- (a) The developer must not use a contractor or subcontractor for any part of the project if they have three (3) or more final penalties totaling \$5,000 each, for violations of applicable wage and hour laws over the past three (3) years.
- (b) The developer must ensure that 25% of the workers employed by the contractors and subcontractors are residents of Montgomery County.
- (c) The property must contain a qualifying development pursuant to 52-24A of the County Code.
- (d) The qualifying development must be more than 8 stories above ground and located on land owned and leased by WMATA.
- (e) A minimum of 50% of the leasable square footage of the qualifying development must consist of high-rise residential apartment units.
- (f) At least 25% of the qualifying development's Moderately Priced Dwelling Units ("MPDUs") required under Chapter 25A of the County Code must be maintained and rented to persons or households whose income is not more than 50% of the Area Median Income ("AMI").
- (g) The developer must record a covenant to maintain affordable housing with the local land records and which runs with the land for 15 years from the date that the qualifying development receives a use and occupancy permit.
- (h) The developer must notify the Director of the addition, sale, transfer, assignments, or other termination of the property as a qualifying development not less than thirty (30) days prior to the effective date of any such event.
- (i) The developer must provide the County with quarterly reports to the Director during the construction demonstrating compliance with these conditions.



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- (j) The developer must provide annually verified compliance certificates with the Director every year during the term of their PILOT Agreement.
- (k) The developer must permit the County to examine its books and records upon reasonable notice and during normal business hours.
- (l) The developer must comply in all respects with the provisions of Section 7-501 of the Tax-Property Article and Section 52-24A of the County Code.

COMCOR 52.24A.00.04 Compliance Reporting

- (a) Quarterly Developer Compliance Report. From the commencement of construction and until the issuance of a certificate of occupancy, the developer will submit to the County, on a calendar quarter basis or any applicable portion thereof, certified payroll reports for all contractors and subcontractors on the qualifying development. The certified payroll reports must list, for each employee on the qualifying development's payroll: a unique employee/position identifier number; the employee's initials; annual salary or hourly rate, as applicable; and zip code of residence. The general contractor must certify as to the accuracy of the information provided.
- (b) Annual Company PILOT Certification. For the duration of the PILOT Agreement, the developer must provide an annual certification to the Director, signed by an appropriately authorized officer of the company, certifying that:
 - (1) A minimum of 50% of the leasable square footage of the qualifying development consists of high-rise residential apartment units.
 - (2) At least 25% of the qualifying development's MPDUs required under Chapter 25A of the County Code are maintained or rented to persons or households at 50% of the AMI.
- (c) Repayment of Unpaid Taxes. If during the term of the PILOT Agreement the developer fails to comply with the provisions of the PILOT Agreement, this regulation, or Section 52-24A of the County Code: upon the County's demand, the developer must immediately repay to the County the amount of any and all taxes, interest and penalties which would have been otherwise due and payable on the property but for this PILOT Agreement.



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The annual certification must be received by January 31 of each year following the calendar year being certified. The annual certification should be sent to:

Michael J. Coveyou, Director
Montgomery County Department of Finance
101 Monroe Street, 15th Floor
Rockville, Maryland 20850

COMCOR 52.24A.00.05 Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

COMCOR 52.24A.00.06 Effective Date

This regulation must be submitted to the Council and takes effect upon approval by the County Council.

Marc Elrich,
County Executive

Approved as to Form and Legality
Office of the County Attorney

By: Taggart Hutchinson
Date: February 17, 2021