

Bill No. 35-15
Concerning: Environmental Sustainability
- Benchmarking - Amendments
Revised: 11/17/2015 Draft No. 3
Introduced: September 15, 2015
Enacted: November 17, 2015
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN ACT to:

- (1) add an intent section of the law;
- (2) amend certain definitions;
- (3) provide for certain alternative paths to verification;
- (4) alter the private sector building group deadlines; and
- (5) generally amend County law regarding energy efficiency and environmental sustainability.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Sections 18A-38, 18A-39, 18A-40, and 18A-42

By adding

Chapter 18A, Environmental Sustainability
Section 18A-38A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Chapter 18A is amended by amending Sections 18A-38, 18A-39,**
 2 **18A-40, and 18A-42 and adding Section 18A-38A as follows:**

3 **18A-38A. Intent.**

4 The intent of this Article is to:

- 5 (a) implement recommendations of the 2009 Climate Protection Plan
 6 (EEC-2), 2013 Commercial Building Energy Efficiency study (Chapter
 7 3.2), and support efforts of the Office of Sustainability to increase
 8 energy efficiency and reduce greenhouse gas emissions in the private
 9 sector and County buildings;
- 10 (b) engage the commercial building sector with building energy
 11 information crucial to adopting energy conservation and efficiency
 12 opportunities;
- 13 (c) spur market transformation by making building performance
 14 transparent for the building and tenant market, allowing more accurate
 15 evaluation of energy costs and creating a competitive market for energy
 16 efficient buildings;
- 17 (d) strengthen the local economy by encouraging more efficient business
 18 operations and providing new opportunities for local businesses that
 19 provide energy conservation and efficiency services; and
- 20 (e) recognize building owners that have made investments to improve their
 21 building energy performance and expand in-house capacity for energy
 22 management.

23 **18A-38B. Definitions.**

24 * * *

25 *County building* means any building owned by the County, or any group of
 26 buildings owned by the County that have the same property identification

number, that equals or exceeds 50,000 in total building square footage [square feet gross floor area, as identified by the Director].

Covered building means any County building, Group 1 covered building, or Group 2 covered building. *Covered building* does not include any building with more than 10% [occupancy] of total building square footage which is used for:

- (1) public assembly in a building without walls;
- (2) warehousing;
- (3) self storage; or
- (4) a use classified as manufacturing and industrial or transportation, communication, and utilities.

* * *

Group 1 covered building means any nonresidential building, or any group of nonresidential buildings that have the same property identification number, not owned by the County that equals or exceeds 250,000 in total building square footage [square feet gross floor area, as identified by the Director].

Group 2 covered building means any nonresidential building, or any group of nonresidential buildings that have the same property identification number, not owned by the County that equals or exceeds 50,000 square feet gross floor area but is less than 250,000 in total building square footage [square feet gross floor area, as identified by the Director].

* * *

[*Licensed professional*] Recognized data verifier means a [professional engineer] Professional Engineer or a [registered architect] Registered Architect [licensed in the State], or another trained individual whose professional license or building energy training program credential is recognized by the Director [as defined in applicable County regulations].

* * *

[*Gross floor area*] Total building square footage means the sum of the gross horizontal area of the several floors of a building or structure measured from the exterior faces of the exterior walls or from the center line of party walls. In a covered but unenclosed area, such as a set of gasoline pumps or a drive-through area, gross floor area means the covered area. [*Gross floor area*] Total building square footage does not include any:

- (1) basement or attic area with a headroom less than 7 feet 6 inches;
- (2) area devoted to unenclosed mechanical, heating, air conditioning, or ventilating equipment;
- (3) parking structure; or
- (4) accessory structure to a residential building.

18A-39. Energy use benchmarking.

- (a) *County buildings*. No later than June 1, 2015, and every June 1 thereafter, the County must benchmark [all buildings owned by the] County buildings for the previous calendar year and report the benchmarking information to the Department.
- (b) *Group 1 covered buildings*. No later than [December] June 1, 2016, and every [December] June 1 thereafter, the owner of any Group 1 covered building must benchmark the building for the previous calendar year[. The owner must] and report the benchmarking information to the Department [no later than January 1 each year].
- (c) *Group 2 covered buildings*. No later than [December] June 1, 2017, and every [December] June 1 thereafter, the owner of any Group 1 covered building must benchmark the building for the previous calendar year[. The owner must] and report the benchmarking information to the Department [no later than January 1 each year].

* * *

18A-40. Data Verification.

- (a) *Verification required.* Before the first benchmarking deadline required by Section 18A-39, and before each third benchmarking deadline thereafter, the owner of each covered building must assure that reported benchmarking information for that year is verified by a [licensed professional] recognized data verifier. The verification must be a [stamped and] signed statement by a [licensed professional] recognized data verifier attesting to the accuracy of the information. If the Director requests, the owner of a covered building must produce the statement available for the most recent year in which verification was required.
- (b) [Waiver] Alternative Verification Path. The Director may waive the verification requirement [of] under this Section if the owner [shows that compliance with this Section will cause undue financial hardship. If a no-cost or low-cost verification option is available, the Director may require the owner to use the alternative option] can demonstrate that the building has achieved ENERGY STAR Certification for at least 6 months of the year being benchmarked.

18A-42. Annual report; disclosure of benchmarking information.

- (a) *Annual report required.* By October 1 of each year, the Director must submit a benchmarking report to the County Executive and County Council. The report must review and evaluate energy efficiency in covered buildings, including:
- (1) summary statistics on the most recent reported energy benchmarking information, including information on the completeness and level of data quality of the building energy data being reported by building type per the benchmarking tool;

* * *

(c) *Exceptions to disclosure.* To the extent allowable under state law, the Director must not make the following readily available to the public:

- (1) any individually-attributable reported benchmarking information from the first calendar year that a covered building is required to benchmark; and
- (2) any individually-attributable reported benchmarking information relating to a covered building that contains a data center, or television studio [, or trading floor] that together exceeds 10% of the [gross square footage] total building square footage of the individual building until the Director finds that the benchmarking tool can make adequate adjustments for these facilities. When the Director finds that the benchmarking tool can make adequate adjustments, the Director must report this data in the annual report.

Approved:

George Leventhal

11/18/2015

George Leventhal, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date