
PRESENT

Councilmember Sidney Katz, President               Councilmember Tom Hucker, Vice President
Councilmember Gabe Albornoz                  Councilmember Andrew Friedson
Councilmember Evan Glass                  Councilmember Will Jawando
Councilmember Nancy Navarro                Councilmember Craig Rice
Councilmember Hans Riemer

The President in the Chair.

PRESENTATIONS

A. Proclamation was presented by Mr. Albornoz celebrating Hermandad de Sigma Iota Alpha Incorporada’s 30th.

GENERAL BUSINESS

A. Announcements - Agenda and Calendar Changes

Ms. Paradise, Deputy Clerk of the Council, announced an addendum to the agenda, postponing introduction of Bill 41-20, Agricultural Land Preservation - Solar Collection System - Dedication of Business Personal Property Tax Revenue; and postponing the worksession on Zoning Text Amendment (ZTA) 20-01, Solar Collection System - AR Zone Standards.

(1) The Council is seeking applicants for 11 positions on the County’s 11-member Commission on Redistricting. The deadline to apply for consideration is Monday, October 26, 2020, at 5:00 P.M.
B. **Acknowledgement - Receipt of Petitions**


C. **Action - Approval of Minutes**

Approved the minutes of May 21, 27, and 29, 2020, and the closed session minutes of July 14, 2020, without objection.

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**CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Rice made the motion, which carried without objection.

A. **Introduced** a supplemental appropriation to Montgomery County Public School’s (MCPS) FY21 Operating Budget - $374,031 for the Governor's Emergency Education Relief (GEER) Fund - Innovative Approaches to Connecting with Students Project Grant. A public hearing and action are scheduled for October 13, 2020 at 1:30 P.M.

B. **Introduced** a supplemental appropriation #2-S21-CMCG-1 to the County Government’s FY21 Capital Budget and Amendment to the FY21-26 Capital Improvements Program (CIP), Department of Environmental Protection (DEP) - $4,700,000 for Transfer Station Fire Detection and Suppression System. A public hearing and action are scheduled for October 13, 2020 at 1:30 P.M.

C. **Introduced** a resolution to Authorize Montgomery County Application for Community Development Block Grant Funds for Emergency Rental Assistance.

D. **Adopted Resolution 19-600**, approving a supplemental appropriation to the County Government’s FY21 Operating Budget, Office of the County Executive - [$550,000] $350,000 to support a Police audit, Fire and Rescue Service audit, and consulting funds for community engagement support.

   Note: adopted in the amount of $350,000; $200,00 Fire and Rescue Service audit funding to be included in FY22 operating budget.

F. Adopted Resolution 19-602, approving Categorical Transfers of $7,927,000 for MCPS’ FY20 Operating Budget, and Categorical Transfers of $1,617,000 for FY20 Grant Funds in the Provision for Future Supported Projects.

G. Adopted Resolution 19-603, confirming the County Executive’s appointments to the Domestic Violence Coordinating Council: Michelle Maxberry, Amy Palumbo, Maura Lynch, Vikhyana Gonzalez.

H. Adopted Resolution 19-604, confirming the County Executive’s appointments to the Glen Echo Park Partnership, Inc. Board of Directors: David Greenbaum, Ronda Keys, Samir Paul.

I. Adopted Resolution 19-605, confirming the County Executive’s appointments to the Advisory Board for Montgomery Cares Program: Kathleen Emami, Ashok Kapur, Langston Smith, Diana Saladini, Katherine Deerkoski, Sharron Holquin.

J. Adopted Resolution 19-606, confirming the County Executive’s appointments to the Rustic Roads Advisory Committee: N. Anne Davies, Laura Van Etten.

K. Received and Released the Office of Legislative Oversight (OLO) COVID-19 Recovery Outlook papers:
   10. Cost-Burdened Renter Households
   11. Minority-Owned Small Businesses

The Council recessed at 9:47 A.M. because it was ahead of schedule and reconvened at 10:00 A.M.

(4) INTERVIEWS - Board of Appeals candidates

Interviewed Mr. John Pentecost and Ms. Laura Seminario-Thornton, applicants for appointment to one seat on the Board of Appeals. Action is tentatively scheduled for October 20, 2020.

(5) ACTION - Confirmation of County Executive’s appointee as the Chief Administrative Officer: Richard Madaleno

Adopted Resolution 19-607, confirming the County Executive’s appointment of Richard Madaleno as Chief Administrative Officer.

Mr. Albornoz made the motion, which carried without objection.
UPDATE - Novel Coronavirus (COVID-19) and County Public Health Planning

Participating in the discussion were Dr. Gayles, County Health Officer and Chief, Public Health Services, Department of Health and Human Services (DHHS); and Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS).

Dr. Stoddard reviewed the proposed late-night alcohol sales opt-in program, noting that they worked with restaurant owners regarding their concerns, safety protocols, and enforcement measures to ensure the safety of residents. Dr. Stoddard said that during the colder months, air ventilation and filtration are more important, and they are working to identify those venues where more ventilation and air filtration is needed to allow those businesses to open.

There has been an increased demand for food in the community and less federal food aid. Dr. Stoddard said it is likely the County will need to fund more to address food insecurity, and that they will encourage more federal food aid support.

A meeting is scheduled on Friday, October 2, with non-public school representatives to continue to provide guidance on reopening. Dr. Stoddard said there have been cases of COVID-19 in non-public schools and in Montgomery College. They are trying to find a reasonable option to safely open MCPS schools for special education and other special needs students.

Dr. Stoddard said theaters are remaining closed because performances are longer than a dinner seating, requirements for ventilation are less for theaters than for restaurants, and that removal of masks to consume concessions is a concern. They are monitoring a pilot program in the District of Columbia and are willing to make changes in accommodations to allow certain venues to open if it can be done safely.

Responding to questions, Dr. Stoddard reviewed the requirements for the opt-in late night alcohol sales program, which the Council will consider on October 1. Requirements include having a designated employee whose sole responsibility is monitoring and enforcing the safety guidelines, and businesses that have received a citation for non-compliance are not eligible. There are clear metrics for drawback of the program if needed due to an increase in cases attributed to the extended hours.

Dr. Gayles stated that COVID-19 cases and COVID-like illnesses among school students and staff must be reported to the Health Department. Ten schools have reported confirmed positive cases, and he noted that an “outbreak” means two or more positive cases with the potential for transmission in that setting.
Mr. Riemer inquired if contact tracing provides needed information and if it can be determined that the opening of private schools has resulted in additional cases.

Mr. Albornoz asked if public restrooms are a source of spreading the virus; Dr. Stoddard said any surface touched is a possible source of contamination and reminded people to thoroughly wash their hands. Dr. Gayles agreed to have his team look into whether use of public restrooms poses unreasonable additional risk.

Dr. Gayles said that indoor tennis participants, and other indoor sports participants, must wear masks due to ventilation issues, and that the alternative is to not allow indoor sports to remain open. Regarding the availability of rapid testing, he said no specific information is available yet, but they are participating in a multi-state group effort to obtain the test kits. Nursing homes and assisted living facilities would be first to receive the tests, and they are looking at vendors to provide large-scale rapid testing. They are developing a strategy for dissemination of a COVID vaccine when it becomes available, with some federal guidance in the setting of priority groups. He encouraged residents to get a flu vaccine and noted that the Rocking Horse site would provide vaccines. He said parents should keep their children up-to-date on vaccines even though they are not attending school in-person.

Mr. Rice inquired if the aging-out of children in the foster care system has been addressed, given concerns about housing and job opportunities during the pandemic. Dr. Stoddard said he would follow-up on this issue.

The meeting recessed at 11:14 A.M. and reconvened at 1:32 P.M.

(7) PUBLIC HEARING/ACTION - Supplemental Appropriation to the Montgomery County Public Schools’ (MCPS) FY20 Operating Budget $1,074,972 for MCPS’s Safe Schools Grant

The public hearing was conducted and the record closed. Mr. Hucker was temporarily absent.

Adopted Resolution 19-608, approving the subject supplemental appropriation.

Ms. Navarro made the motion, which carried without objection. Mr. Hucker was temporarily absent.

Later in the meeting, Mr. Hucker indicated that had he been present, he would have voted in the affirmative.
PUBLIC HEARING/ACTION - Supplemental Appropriation to MCPS’s FY21 Capital Budget and Amendment to the FY21-26 CIP - $602,651 for Planned Lifecycle Asset Replacement

The public hearing was conducted and the record closed. Mr. Hucker was temporarily absent.

Adopted Resolution 19-609, approving the subject supplemental appropriation and amendment to the FY21-26 CIP.

Mr. Rice made the motion, which carried without objection. Mr. Hucker was temporarily absent.

Later in the meeting, Mr. Hucker indicated that had he been present, he would have voted in the affirmative.

PUBLIC HEARING - Annual WSSC Water Spending Control Limits (SCL)

The public hearing was conducted. Additional material for the Council’s consideration should be submitted by the close of business on October 1, 2020. A Transportation and Environment (T&E) Committee worksession is tentatively scheduled for October 7, 2020.

PUBLIC HEARING/ACTION - Supplemental Appropriation to the County Government’s FY21 Operating Budget, Department of Transportation (DOT) - $70,574 for Streets and Roads - Roadside Trees-Protection

The public hearing was conducted and the record closed.

Adopted Resolution 19-610, approving the subject supplemental appropriation.

Ms. Navarro made the motion, which carried without objection.

PUBLIC HEARING/ACTION - Special Appropriation to the County Government’s FY21 Operating Budget - Early Care and Education Non-Departmental Account (NDA) COVID-19 - $7,687,000 for School-Age Child Care During Distance Learning

The public hearing was conducted and the record closed.

Mr. Katz stated that this special appropriation, while not a panacea, will improve access to early childcare and education, and the Council would continue to monitor the needs of families and childcare providers.
Mr. Rice commented on the need to continue support for the community hubs and to respond to community needs in a nimble and flexible way.

Ms. Navarro urgently requested an additional proposal to expand and solidify current efforts, noting that the racial equity and social justice law requires the impact of systemic racism be taken into consideration as part of all legislation.

Adopted Resolution 19-611, approving the subject special appropriation.

Mr. Rice made the motion, which carried without objection.

(12) PUBLIC HEARING/ACTION - Supplemental Appropriation to MCPS’ FY21 Operating Budget - $1,117,512 for the Broadband for Unserved Students Grant

The public hearing was conducted and the record closed.

Adopted Resolution 19-612, approving the subject supplemental appropriation.

Mr. Rice made the motion, which carried without objection.

(13) PUBLIC HEARING/ACTION - Supplemental Appropriation to MCPS’ FY21 Operating Budget - $13,241,438 for the Tutoring Program Grant

The public hearing was conducted and the record closed.

Adopted Resolution 19-613, approving the subject supplemental appropriation.

Mr. Rice made the motion, which carried without objection.

(14) PUBLIC HEARING/ACTION - Supplemental Appropriation to MCPS’ FY21 Operating Budget - $18,344,404 for the Technology Program Grant

The public hearing was conducted and the record closed.

Adopted Resolution 19-614, approving the subject supplemental appropriation.

Mr. Riemer made the motion, which carried without objection.
(15) **PUBLIC HEARING/ACTION** - Supplemental Appropriation to MCPS’ FY21 Operating Budget - $1,748,276 for the Governor’s Emergency Education Relief (GEER) Fund Grant

The public hearing was conducted and the record closed.

Adopted **Resolution 19-615**, approving the subject supplemental appropriation.

Mr. Riemer made the motion, which carried unanimously.

(3C) **PUBLIC HEARING/ACTION** - Resolution to Authorize Montgomery County Application for Community Development Block Grant (CDBG) Funds for Emergency Rental Assistance

The public hearing was conducted and the record closed.

Approved Mr. Friedson’s motion to suspend the rules to allow immediate action on the subject resolution, without objection.

Adopted **Resolution 19-616**, authorizing Montgomery County’s application for CDBG funds for emergency rental assistance.

Mr. Glass made the motion, which carried without objection.

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**COUNTY COUNCIL**
**FOR MONTGOMERY COUNTY, MARYLAND**
**IN LEGISLATIVE SESSION - Day #28**

(16) **Introduction of Bills**

A. **Bill 41-20**, Agricultural Land Preservation - Solar Collection System - Dedication of Business Personal Property Tax Revenue

This item was postponed.

B. **Bill 42-20**, Ethics - Public Accountability and Transparency - Amendments

Introduced draft #3 of **Bill 42-20**, sponsored by Councilmembers Friedson, Rice, and Katz. Councilmembers Navarro and Hucker requested to be added as co-sponsors.

A public hearing is scheduled for October 20, 2020, at 1:30 P.M.
C. **Bill 43-20, Non-merit Employees - Merit System Employees - Severance Pay - Limited**

Introduced draft #1 of **Bill 43-20**, sponsored by Councilmembers Friedson, Rice, and Katz. Councilmembers Navarro and Hucker requested to be added as co-sponsors.

A public hearing is scheduled for October 20, 2020, at 1:30 P.M.

D. **Bill 44-20, Racial Equity and Social Justice - Impact Statements - Advisory Committee - Amendments**

Introduced draft #3 of **Bill 44-20**, sponsored by Councilmembers Navarro, Jawando, Albornoz, Hucker, Riemer, Friedson, Katz, Glass, and Rice. A public hearing is scheduled for October 20, 2020, at 1:30 P.M.

(17) **Call of Bills for Final Reading**

A. **Bill 40-20, Uniform Trader's License Fee**

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, reviewed the purpose of the bill and the recommendation of the GO Committee, as contained in the staff report.

Enacted draft #1 of **Bill 40-20**, as introduced.

The GO Committee made the motion and the bill was enacted by a roll call vote:


B. **Bill 6-20, Solid Waste (Trash) - Release of Balloons**

Mr. Hucker, Chair of the T&E Committee, reviewed the recommendations of the Committee, as contained in the staff report.

Enacted draft #3 of **Bill 6-20**, as shown at the end of these minutes.

The T&E Committee made the motion and the bill was enacted by a roll call vote:

C. **Bill 10-20, Property Tax Credit - Energy and Environmental Design - Eligibility Criteria and Amounts of Credit**

Mr. Hucker reviewed the recommendation of the joint GO and T&E Committee, as contained in the staff report.

Enacted draft #4 of **Bill 10-20**, as shown at the end of these minutes.

The joint GO and T&E Committee made the motion and the bill was enacted by a roll call vote:


(18) **DISTRICT COUNCIL SESSION**

A. **Introduction - Forest Glen/Montgomery Hills Sectional Map Amendment (SMA)**

Introduced the subject SMA. A public hearing is scheduled for November 10, 2020, at 1:30 P.M.

B. **Introduction - Zoning Text Amendment (ZTA) 20-03, Townhouse Living - Conditional Use Standards**

Introduced the subject ZTA. A public hearing is scheduled for November 10, 2020, at 1:30 P.M.

C. **Worksession - ZTA 20-01, Solar Collection System - AR Zone Standards**

This item was postponed.

The meeting adjourned at 3:03 P.M.
This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

Selena Mendy Singleton, Esq.
Clerk of the Council
AN ACT to:
(1) prohibit the release of a balloon into the air in certain circumstances;
(2) prescribe penalties for the unlawful release of a balloon; and
(3) generally amend the law regarding solid waste.

By adding
Montgomery County Code
Chapter 48, Solid Waste (Trash)
Article VII, Prohibited Release of Balloons
Sections 48-59, 48-60, 48-61, and 48-62.

The County Council for Montgomery County, Maryland approves the following Act:
Sec 1. Sections 48-59, 48-60, 48-61, and 48-62 are added as follows:

ARTICLE VII. PROHIBITED RELEASE OF BALLOONS

48-59. Definitions.
   (a) In this Article, the following terms have the meanings indicated.
   (b) Terms defined.
       Balloon means an inflatable object:
       (A) manufactured from plastic, latex, rubber, or mylar; and
       (B) inflated with a gas that is lighter than air, such as helium.

       Balloon does not include a hot-air balloon.

       Department means the Department of Environmental Protection.

       Director means the Director of the Department or the Director’s
designee.

       Person means a natural person, an organization, or a legal entity.

       Person includes the County and its agencies.

       Person does not include [[a]] any other government or government
agency.

48-60. Prohibition.
   (a) Except as provided in subsection (b), a person while in the County must
       not release or cause to be released a balloon into the air of the County.
   (b) This section does not prohibit the release of a balloon that is:
       (1) released unintentionally;
       (2) released by a minor child without the permission of an adult;
       (3) used for scientific or meteorological purposes; or
       (4) used solely indoors.

48-61. Education and Outreach.
   (a) The Director must conduct education and outreach regarding
       implementation of this Article.
   (b) The education and outreach should include:
       (1) direct contact with affected businesses and organizations; and
       (2) distribution of information through the County website.

   (a) The Department must administer and enforce this Article.
   (b) A person who violates Section 48-60 is guilty of a Class A civil violation
       under Section 1-19.
(c) Each release of 50 or fewer balloons at one time in violation of Section 48-60 is a separate civil violation.

(d) Presumption of responsibility. [The owner of private property from which a balloon is released in violation of Section 48-60 is presumed to be] There is a rebuttable presumption that the owner of private property from which a balloon is released in violation of Section 48-60 is responsible for the violation if the enforcement officer cannot determine which [occupant of the property] person released the balloon.

(e) Regulations. The Executive may adopt regulations under Method (2) to administer and enforce this Article.
AN ACT to:
(1) alter the eligibility criteria for the property tax credit for energy and environmental
design;
(2) alter the amounts and durations of the property tax credit for energy and environmental
design by type of building;
(3) alter annual limits on the total amounts of property tax credits granted by the County for
energy and environmental design; and
(4) generally amend the law concerning the property tax credit for energy and
environmental design.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-103

By adding
Montgomery County Code
Chapter 52, Taxation
Sections 52-103A and 52-103B

The County Council for Montgomery County, Maryland approves the following Act:
Sec 1. Section 52-103 is amended, and Sections 52-103A and 52-103B are added, as follows:

52-103. Property tax credit – energy and environmental design.

   *   *   *

   (c) Application and sunset dates. [[A taxpayer must apply for the credit]] [within 1 year after the building is certified as a high performance building] [[on the application and in the manner that the Director of Finance requires]] To qualify for a tax credit under this Section, a taxpayer must submit an application of intent to apply for the credit by January 1, 2022 and either:

   (1) for LEED-EB project certification, receive LEED-EB project certification for an eligible LEED-EB building and submit an application to the Director by January 1, 2023;

   or

   (2) for LEED-CS or LEED-NC certification, receive a building permit for an eligible LEED-CS or LEED-NC building and submit an application to the Director by January 1, 2024.

   *   *   *

Sec. 52-103A. Property tax credit - energy-efficient buildings

   (a) Intent. The intent of this Section is to:

   (1) encourage building owners to increase the energy performance of existing buildings;

   (2) incentivize building owners to reduce the energy and climate impacts of existing buildings, as the built environment generates more than half of the County’s measured community-wide greenhouse gas emissions;

   (3) advance the County’s aggressive climate goals of an 80 percent reduction in greenhouse gas emissions by 2027 and zero emissions by 2035:
(4) institute regular review of the tax credits outlined in this Section to ensure that they are meeting the goals under paragraphs (1) through (3); and

(5) implement a tax credit under Section 9-242(a) of the Tax-Property Article of the Maryland Code, as amended.

(b) Definitions. In this Section the following words have the meanings indicated:

Accredited building professional means an individual that holds a valid and current credential from a building certification organization.

Baseline ENERGY STAR Score means the ENERGY STAR score of a building calculated over any consecutive 12-month period when the scored building is at least 50 percent occupied.

BRE Global means the Building Research Establishment Global.

BREEAM means the Building Research Establishment Environmental Assessment Method rating system administered by BRE Global.

Building certification organization means a third-party organization that administers the rating systems identified in this Section.

Building Sustainability Tax Credit is the property tax credit received for earned building certifications described in this Section.

Director means the Director of the Department of Finance or the Director’s designee.

Energy-efficient building means a non-residential or multi-family residential building that: (1) has or will have at least 10,000 square feet of gross floor area; (2) has received a Certificate of Occupancy from the Department of Permitting Services; (3) has achieved at least a minimum 50 percent occupancy rate for at least 12 consecutive months; and (4) has demonstrated energy improvements consistent with the requirements of this Section.

Energy Reduction Tax Credit is the property tax credit received for energy performance improvements described in this Section.

ENERGY STAR Data Verification Checklist means a report generated in
the ENERGY STAR Portfolio Manager tool to document property use
details and energy consumption.

**ENERGY STAR Portfolio Manager** means the no-cost web-based energy
management tool developed and maintained by the U.S. Environmental
Protection Agency to track and assess building energy performance.

**ENERGY STAR Score** means the numerical measure of a building’s
energy use generated through the use of ENERGY STAR Portfolio
Manager.

**ENERGY STAR score metric reference data** means the market data used
by the U.S. Environmental Protection Agency to generate the ENERGY
STAR Score.

**Energy Use Intensity or EUI** refers to the amount of energy used in a
building per square foot per year.

**Improved ENERGY STAR Score** means the ENERGY STAR score of a
building calculated within a consecutive 12-month period when the
scored building is at least 50 percent occupied, demonstrating energy
savings resulting from the use of a qualifying energy conservation device.

**LEED** means the **Leadership in Energy and Environmental Design** rating
system administered by the USGBC.

**Occupancy** means the percentage of a building that is occupied and
operational.

**Property tax** means the general County property tax and all special
service area taxes.

**USGBC** means the United States Green Building Council.

(c) **Credit.** The Director must allow a tax credit each eligible year against the
property tax imposed on an energy-efficient building under this Section.

(d) **Application.** An application by the owner of an energy-efficient building
for a tax credit must be in the form prescribed by the Director and
include:

1. a description of the energy conservation device installed in the
   building:
the ENERGY STAR Portfolio Manager Data Verification Checklists documenting the baseline and improved (within the past year) ENERGY STAR scores of an existing energy-efficient building, signed by an accredited building professional; and

(3) if the Building Sustainability Tax Credit is sought, verified documentation demonstrating qualification within the past year for the Building Sustainability Tax Credit in subsection (f).

(e) Energy Reduction Tax Credit.

(1) An energy-efficient building may receive an Energy Reduction Tax Credit for achieving energy use reductions under this subsection and, if that credit is granted, may receive an additional Building Sustainability Tax Credit under subsection (f).

(2) For the Energy Reduction Tax Credit, the percentage of the annual County property tax credit, awarded for 2 years, is calculated by subtracting an energy-efficient building’s 12-month baseline ENERGY STAR score from the improved 12-month ENERGY STAR score, then multiplying the difference by the multiplier below based on the improved ENERGY STAR score:

(A) if the improved ENERGY STAR score falls between 1-24, multiply the difference by 1.0;

(B) if the improved ENERGY STAR score falls between 25-49, multiply the difference by 1.5;

(C) if the improved ENERGY STAR score falls between 50-74, multiply the difference by 2.0; or

(D) if the improved ENERGY STAR score falls between 75-100, multiply the difference by 2.5.

(3) Baseline and Improved ENERGY STAR Score 12-month time periods must not overlap and must not be more than 6 calendar years apart.

(4) The Baseline ENERGY STAR Score 12-month time period must not begin earlier than August 26, 2018. Baseline and Improved
ENERGY STAR Score 12-month time periods must use the same ENERGY STAR score metric reference data.

(5) If a building is not able to earn the ENERGY STAR score due to the property use type, the Director may accept the USGBC alternative compliance path for Energy Use Intensity (EUI).

(f) **Building Sustainability Tax Credit**

(1) The owner of an energy-efficient building seeking the Building Sustainability Tax Credit must apply for that tax credit simultaneously with the Energy Reduction Tax Credit. The amount of the Building Sustainability Tax Credit must be added to the Energy Reduction Tax Credit. The Building Sustainability Tax Credit must be equal to:

(A) 25% of the property tax owed on the building for 2 years, if the building achieves the most recent version available of LEED O+M Gold, BREEAM In-Use Excellent or an equivalent standard; or

(B) 50% of the property tax owed on the building for 2 years, if the building achieves the most recent version available of LEED O+M Platinum, BREEAM In-Use Outstanding or an equivalent standard.

(2) To be approved for the Building Sustainability Tax Credit, an energy-efficient building must also be approved for the Energy Reduction Tax Credit.

(g) **Total Maximum Credit.** The maximum credit that an energy-efficient building may be granted in any year must not exceed 100% of the building’s annual County property tax liability.

(h) **Annual limits.** In any fiscal year, the Director must not award more than $5 million in total tax credits granted to all buildings under this Section.

(i) **Reapplications.**

(1) The owner of an energy-efficient building awarded a tax credit under this Section may reapply twice after the initial 2-year credit
cycle. The maximum number of applications a building owner may submit is 3, consisting of 1 initial application and 2 reapplications.

(2) For any reapplications, the building owner must submit a new Baseline ENERGY STAR Score for the building and describe the improvements performed to achieve the energy reduction. The Baseline ENERGY STAR Score for a reapplication may not be older than the 12-month time period used for the Improved ENERGY STAR Score for the previously approved tax credit. If an owner received a Building Sustainability Tax Credit based upon certification as LEED O+M Gold, BREEAM In-Use Excellent or an equivalent standard, the building must achieve a higher certification, such as LEED O+M Platinum, BREEAM In-Use Outstanding or an equivalent standard, upon reapplication.

(j) Credit Review.

(1) On or before October 1 of each year, the Director of Finance must prepare a report on the status of the Energy Reduction Tax Credit and Building Sustainability Tax Credit.

(2) Every 3 years, the County Executive must submit a report to the County Council reviewing the effectiveness of the Energy Reduction Tax Credit and Building Sustainability Tax Credit and make recommendations on any credit alterations.

(k) Regulations. The County Executive may issue regulations under method (2) to administer the Energy Reduction Tax Credit and the Building Sustainability Tax Credit.

52-103B. Property tax credit - newly constructed energy-efficient buildings

(a) Intent. The intent of this Section is to:

(1) encourage building owners to increase the energy performance of newly constructed buildings beyond current Building and Zoning Code requirements at time of application;
(2) incentivize building owners to reduce the energy and climate impacts of newly constructed buildings, as the built environment generates more than half of the County’s measured community-wide greenhouse gas emissions;

(3) advance the County’s aggressive climate goals of an 80 percent reduction in greenhouse gas emissions by 2027 and zero emissions by 2035;

(4) institute regular review of the tax credits outlined in this Section to ensure that they are meeting the goals under paragraphs (1) through (3); and

(5) implement a tax credit under Section 9-242(a) of the Tax-Property Article of the Maryland Code, as amended.

(b) Applicability. The credit authorized by this Section applies to any tax year beginning January 1, 2022.

(c) Definitions. In this Section the following words have the meanings indicated:

BRE Global means the Building Research Establishment Global.

BREEAM means the Building Research Establishment Environmental Assessment Method rating system administered by BRE Global.

New Building Sustainability Tax Credit is the property tax credit received for earned building certifications described in this Section.

Director means the Director of the Department of Finance or the Director’s designee.

Newly constructed energy-efficient building means:

(A) An unoccupied non-residential or multi-family residential “core and shell” building, of at least 10,000 square feet in gross floor area, with full mechanical systems, electrical distribution infrastructure, and a weather-sealed thermal envelope that has achieved substantial completion and received a Certificate of Occupancy from the Department of Permitting Services within the past year;
(B) A newly constructed non-residential or multifamily building, of at least 10,000 square feet in gross floor area, that has achieved substantial completion and received a Certificate of Occupancy from the Department of Permitting Services within the past year; or

(C) A non-residential or multifamily building, of at least 10,000 square feet in gross floor area, that has undergone a major renovation that warrants bringing the entire building up to current Building Code standards and has received final inspection and approval from the Department of Permitting Services.

New Building Energy Reduction Tax Credit is the property tax credit received for energy performance improvements described in this Section.

LBC or Living Building Certification means the Living Building Certification administered by the International Living Future Institute.

LEED means the Leadership in Energy and Environmental Design rating system administered by the USGBC. In this Section, LEED building certification includes all eligible rating systems for newly constructed non-single-family-residential buildings.

NGBS means the National Green Building Standard rating system administered by Home Innovation Research Labs.

PassiveHouse means the PassiveHouse standard administered by PHIUS.

PHIUS means the PassiveHouse Institute US.

Property tax means the general County property tax and all special service area taxes.

USGBC means the United States Green Building Council.

(d) Credit. The Director must allow a tax credit each eligible year against the property tax imposed on a newly constructed energy-efficient building under this Section.

(e) Application.
An application by the owner of a newly constructed energy-efficient building for a tax credit must be in the form prescribed by the Director and must include:

(A) a certification from the Department of Permitting Services within the past year indicating the percentage performance above current Building Code requirements at time of application demonstrated by the newly constructed energy-efficient building; and

(B) if the New Building Sustainability Tax Credit is sought, verified documentation demonstrating qualification within the past year for the New Building Sustainability Tax Credit.

A building owner that has received either a New Building Energy Reduction Tax Credit or a New Building Sustainability Tax Credit may not reapply for either credit for the same newly constructed building in any later tax year.

New Building Energy Reduction Tax Credit.

A newly constructed energy-efficient building may receive an Energy Reduction Tax Credit for achieving energy use reductions as outlined in this subsection and, if that credit is granted, may receive an additional Building Sustainability Tax Credit as described in subsection (g).

To be eligible for the New Building Energy Reduction Tax Credit, a newly constructed energy-efficient building owned by the applicant must achieve a minimum 10 percent increase in energy performance above the current applicable Building and Zoning Code requirements at time of application using an energy modeling software approved by the Department of Permitting Services.

For the New Building Energy Reduction Tax Credit, the percentage of the annual County property tax credit awarded for 4
years is calculated by rounding a newly constructed energy-efficient building’s performance above Building Code and Zoning Code requirements to the nearest whole number and multiplying it by the multiplier below:

(A) if the building’s performance above Code is between 10 and 20 percent, multiply the building performance percentage figure by 0.5;

(B) if the building’s performance above Code is between 21 and 30 percent, multiply the building performance percentage figure by 1.0;

(C) if the building’s performance above Code is between 31 and 40 percent, multiply the building performance percentage figure by 1.5; or

(D) if the building’s performance above Code is above 40 percent, multiply the building performance percentage figure by 2.0.

(g) **New Building Sustainability Tax Credit.** The owner of a newly constructed energy-efficient building seeking the New Building Energy Tax Credit must apply for that tax credit simultaneously with the New Building Energy Reduction Tax Credit.

(1) The amount of the New Building Sustainability Tax Credit must be equal to:

(A) 25% of the property tax owed on the building for 4 years if the building achieves the most recent version available of LEED Gold, NGBS Gold, PHIUS+/PassiveHouse, BREEAM-NC Excellent or an equivalent standard;

(B) 75% of the property tax owed on the building for 4 years if the building achieves the most recent version available of LBC Petal Certification, LEED Platinum, NGBS Emerald, BREEAM-NC Outstanding or an equivalent standard; or
(C) 75% of the property tax owed on the building for 5 years if
the building achieves the most recent version available of
Living Building Certification.

(2) To be approved for the New Building Sustainability Tax Credit,
an energy-efficient building must also be approved for the New
Building Energy Reduction Tax Credit.

(h) Total Maximum Credit. The maximum credit under this Section that an
energy-efficient building may be granted in any fiscal year must not
exceed 100% of the building’s annual property tax liability.

(i) Credit Review.

(1) By October 1 of each year, the Director must prepare a report on
the status of the New Building Energy Reduction Tax Credit and
the New Building Sustainability Tax Credit.

(2) Every 3 years, the County Executive must submit a report to the
Council reviewing the effectiveness of the New Building Energy
Reduction Tax Credit and the New Building Sustainability Tax
Credit and making recommendations on any credit alterations.

(j) Regulations. The County Executive may issue regulations under method
(2) to administer the New Building Energy Reduction Tax Credit and the
New Building Sustainability Tax Credit.

Sec. 2. Sunset Clause. Section 52-103 of the County Code must sunset,
and must and have no further force and effect, on January 1, 2025.