

Bill No. 16-21  
Concerning: Environmental Sustainability  
- Building Energy Use Benchmarking  
and Performance Standards -  
Amendments  
Revised: 4/19/2022 Draft No. 4  
Introduced: May 4, 2021  
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Executive: \_\_\_\_\_  
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Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) expand the number of buildings covered by benchmarking requirements;
- (2) amend certain definitions;
- (3) establish energy performance standards for covered buildings with certain gross floor area;
- (4) create a Building Performance Improvement Board; and
- (5) generally revise County law regarding environmental sustainability.

By amending

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Sections 18A-38A, 18A-38B, 18A-39, 18A-42, and 18A-43

By adding

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Sections 18A-38, 18A-42A, 18A-42B, 18A-42C, 18A-43A, 18A-43B and 40-10B

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

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



27 exceed that of a moderately-priced dwelling unit under Chapter 25A. [[or group  
28 senior assisted housing.]]

29 *Benchmark* means to track and input a building's energy consumption data and  
30 other relevant building information for 12 consecutive months, as required by  
31 the benchmarking tool, to quantify the building's energy use.

32 *Benchmarking tool* means the website-based software, commonly known as  
33 ENERGY STAR Portfolio Manager, or any successor system, [developed and  
34 maintained] approved by the United States Environmental Protection Agency to  
35 track and assess the relative energy use of buildings nationwide.

36 *Building* means:

37 (1) any single structure utilized or intended for supporting or  
38 sheltering any occupancy, except if a single structure contains two  
39 or more individually metered units operating independently that  
40 have stand-alone heating, cooling, hot water, and other  
41 mechanical systems, and no shared interior common areas, or;

42 (2) two or more structures utilized or intended for supporting or  
43 sheltering any occupancy, that:

44 (A) are serviced by a common energy meter;

45 (B) have a common heating or cooling system;

46 (C) share interior common areas; or

47 (D) whose configuration otherwise prevents an accurate  
48 determination of the energy consumption attributable to  
49 each individual structure.

50 *Building energy performance standard* means a policy that sets a minimum  
51 required level of energy performance for covered buildings.

52 Building performance improvement plan means a document in a format  
53 approved by the Director submitted by a covered building owner and approved  
54 by the Director as described in this Article.

55 Building type means a category of covered buildings subject to the same final  
56 performance standards.

57 \* \* \*

58 County-owned covered building means [any] a building owned by the County[,  
59 or any group of buildings owned by the County that have the same property  
60 identification number, that] whose gross floor area equals or exceeds [50,000]  
61 25,000 [in total building] square [footage] feet.

62 Covered building means [any] a County-owned [building], Group 1 [covered  
63 building], [or] Group 2, Group 3, Group 4, or Group 5 covered  
64 building. [Covered building does not include any building with more than 10%  
65 of total building square footage which is used for

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

71 \* \* \*

72 [Energy use intensity or EUI means a numeric value calculated by the  
73 benchmarking tool that represents the energy consumed by a building relative  
74 to its size.]

75 Final performance standard means the numeric value of site EUI that each  
76 covered building must ultimately achieve [[or exceed]].

77 Gross floor area means the total building square footage measured between the  
78 principal exterior surfaces of the enclosing fixed walls of a building. Gross floor

79 area consists of all areas inside the building, including lobbies, tenant areas,  
 80 common areas, meeting rooms, break rooms, the base level of atriums,  
 81 restrooms, elevator shafts, stairwells, mechanical equipment areas, basements,  
 82 and storage rooms. Gross floor area does not include exterior spaces, balconies,  
 83 patios, exterior loading docks, driveways, covered walkways, outdoor play  
 84 courts (e.g., tennis, basketball), parking, the interstitial space between floors  
 85 (which house pipes and ventilation), and crawl spaces. Gross floor area is not  
 86 the same as rentable space, but rather includes all areas inside the building(s).

87 *Group 1 covered building* means [any] a privately owned nonresidential  
 88 covered building [, or any group of nonresidential buildings that have the same  
 89 property identification number, not owned by the County that] whose gross floor  
 90 area equals or exceeds 250,000 [in total building] square [footage] feet.

91 *Group 2 covered building* means [any] a privately owned nonresidential  
 92 covered building [, or any group of nonresidential buildings that have the same  
 93 property identification number, not owned by the County that] whose gross floor  
 94 area equals or exceeds 50,000 square feet [gross floor area] but is less than  
 95 250,000 [in total building] square [footage] feet.

96 *Group 3 covered building means:*

- 97 (1) a privately owned nonresidential covered building whose gross floor area  
 98 equals or exceeds 25,000 square feet but is less than 50,000 square feet,  
 99 or  
 100 (2) a privately owned nonresidential covered building whose gross floor  
 101 area equals or exceeds 50,000 square feet and whose use type was  
 102 previously exempted under this Article.

103 *Group 4 covered building* means a privately owned multifamily residential or  
 104 mixed-use covered building whose gross floor area equals or exceeds 250,000  
 105 square feet.

106 Group 5 covered building means a privately owned multifamily residential or  
107 mixed-use building whose gross floor area equals or exceeds 25,000 square feet  
108 but is less than 250,000 square feet.

109 Interim performance standard means the numeric value of site EUI which  
110 covered buildings must achieve or exceed by a fixed date every [[five (5)]] four  
111 (4) years from a covered building's performance baseline.

112 Interior common area means shared space within a building such as hallways,  
113 lobbies, stairwells, and other shared amenities (e.g., gyms, laundry rooms, party  
114 rooms).

115 Mixed-use building means a building that contains both residential units and  
116 commercial space.

117 Net site EUI means site energy use minus energy generated from [[onsite solar  
118 sources]] the renewable energy allowance divided by the total gross floor area  
119 of the building expressed in thousands of British thermal units per gross square  
120 feet (kBtu/GSF).

121 Newly constructed covered building means a covered building whose owner has  
122 completed construction, received a use and occupancy permit, and is able to  
123 begin benchmarking the building's energy use and other characteristics.

124 Normalized net site energy means the site energy use by the covered building  
125 normalized for weather and other characteristics within the limits of the  
126 capabilities of the benchmarking tool and normalized for other factors as  
127 determined by the Department minus energy generated from [[onsite solar  
128 sources]] the renewable energy allowance.

129 Normalized net site EUI means the total normalized net site energy use  
130 consumed by a covered building in one year divided by the total gross floor area  
131 of the building expressed in kBtu/GSF.

132 Owner means an individual or legal entity in whose name a building is titled, or  
 133 in the case of a community association, the governing body of either a  
 134 condominium or a cooperative housing corporation.

135 Performance baseline means the normalized net site EUI for a covered building  
 136 averaged over two calendar years.

137 Performance metric means an objectively verifiable numeric measure of  
 138 normalized site EUI to determine building performance.

139 Process load means energy consumed for bona fide purposes other than heating,  
 140 cooling, ventilation, domestic hot water, lighting, appliances, office equipment,  
 141 data centers, or other plug loads.

142 \* \* \*

143 *Reported benchmarking information* means the descriptive information about a  
 144 building, its operating characteristics, and information generated by the  
 145 benchmarking tool regarding the building’s energy consumption, [and]  
 146 efficiency, and performance. *Reported benchmarking information* includes the  
 147 building identification number, address, gross floor area, energy performance  
 148 score, site energy use intensity, and annual greenhouse gas emissions.

149 [*Residential occupancy* means the occupancy of dwelling units in any building  
 150 that includes one or more dwellings.]

151 Site energy use means all energy used onsite by a covered building to meet the  
 152 energy loads of a building, including electricity delivered to the building through  
 153 the electric grid and generated onsite with renewable sources; natural gas;  
 154 district steam; district hot and chilled water; diesel; propane; fuel oil; wood;  
 155 coal; and other fuels used onsite. Site energy use does not include electricity  
 156 used to charge vehicles.

157 Site energy use intensity or site EUI means a numeric value calculated by the  
 158 benchmarking tool that represents the energy consumed by a covered building

159 relative to its size in terms of energy used per square foot of gross floor area per  
 160 year.

161 Tenant means a person or legal entity occupying or holding possession of a  
 162 building, part of a building, or premises under a rental agreement.

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

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

174 **18A-38B. Applicability.**

175 This Article does not apply to a covered building for which more than 50% of  
 176 the total gross floor area is used for:

- 177 (a) public assembly in a building without walls;
- 178 (b) industrial uses where the majority of energy is consumed for  
 179 manufacturing, the generation of electric power or district thermal energy  
 180 to be consumed offsite, or for other process loads; or
- 181 (c) transportation, communications, or utility infrastructure.

182 **18A-39. Energy use benchmarking.**

- 183 (a) County-owned covered buildings.
- 184 (1) No later than June 1, 2015, and every June 1 thereafter, the County
- 185 must benchmark any County-owned covered building[s] whose



186 gross floor area equals or exceeds 50,000 square feet for the  
187 previous calendar year and report the benchmarking information  
188 to the Department.

189 (2) No later than June 1, ~~[[2022]]~~ 2023, and every June 1 thereafter,  
190 the County must benchmark any County-owned covered building  
191 whose gross floor area equals or exceeds 25,000 square feet but is  
192 less than 50,000 square feet for the previous calendar year and  
193 report the benchmarking information to the Department.

194 (b) \* \* \*

195 (c) \* \* \*

196 (d) Group 3 and Group 4 covered buildings. No later than June 1, ~~[[2022]]~~  
197 2023, and every June 1 thereafter, the owner of any Group 3 or Group 4  
198 covered building must benchmark the building for the previous calendar  
199 year and report the benchmarking information to the Department.

200 (e) Group 5 covered buildings. No later than June 1, ~~[[2023]]~~ 2024, and  
201 every June 1 thereafter, the owner of any Group 5 covered building must  
202 benchmark the building for the previous calendar year and report the  
203 benchmarking information to the Department.

204 (f) Newly constructed covered building. Following the first full calendar  
205 year that energy data can be collected and that the building was occupied,  
206 on average, by at least one full-time-equivalent employee (40 person-  
207 hours per week) exclusive of security guards, janitors, construction  
208 workers, landscapers, and other maintenance personnel throughout the  
209 calendar year being reported, the owner of any newly constructed covered  
210 building must benchmark the building and report to the Department no  
211 later than June 1 of that following year, and every June 1 thereafter.

212 [(d)] (g) *Waiver.* [The Director may waive the benchmarking requirements  
 213 of this Section if] For any time period for which the owner of a covered  
 214 building documents, in a form required by regulation, [that the building]  
 215 any of the conditions below, the Director may waive the benchmarking  
 216 requirements of this Section[:].

- 217 (1) [is in financial] Financial distress, defined as a building that:  
 218 (A) is the subject of a tax lien sale or public auction due to  
 219 property tax arrearages;  
 220 (B) is controlled by a court appointed receiver; or  
 221 (C) was recently acquired by a deed in lieu of foreclosure;  
 222 (2) [had average physical occupancy of less than 50% throughout the  
 223 calendar year for which benchmarking is required] On average,  
 224 less than one full-time-equivalent employee occupied the building  
 225 during the calendar year being reported; [or]  
 226 (3) The covered building is [new] newly [construction] constructed  
 227 and has received its certificate of use and occupancy during the  
 228 calendar year for which benchmarking is required[.]; or  
 229 (4) The covered building was demolished or received its demolition  
 230 permit during the calendar year for which benchmarking is  
 231 required.

232 **18A-42. Establishment of building energy performance standards.**

233 (a) *Requirement.* The Department must develop and implement building  
 234 energy performance standards for covered buildings. The standards  
 235 must:

- 236 (1) increase the energy efficiency of existing covered buildings and  
 237 expedite the reduction of greenhouse gas emissions from the  
 238 building sector;

- 239           (2)   use normalized net site EUI as a performance metric wherever  
 240                   feasible or net site EUI if the Director determines that  
 241                   normalization is not practical as performance metric;
- 242           (3)   account for [[onsite solar generation]] the renewable energy  
 243                   allowance in the performance metric;
- 244           (4)   use the benchmarking tool to report building energy performance  
 245                   to the County; and
- 246           (5)   utilize available data sources and best practices to establish interim  
 247                   and final performance standards.

248   (b)   *Building types.*

- 249           (1)   No later than [[June 1, 2022]] December 31, 2023, the County  
 250                   Executive must issue Method (2) regulations establishing building  
 251                   types for every covered building.
- 252           (2)   Covered buildings within each building type must have shared  
 253                   characteristics that facilitate the implementation and enforcement  
 254                   of this Article. The Department may define one or more building  
 255                   types to be identical to ENERGY STAR property type categories.
- 256           (3)   All covered buildings within the same building type category must  
 257                   be subject to the same final performance standards that facilitate  
 258                   the implementation and enforcement of this Article.

259   (c)   *Performance baseline.* The performance baseline for each covered  
 260           building must be calculated as follows:

- 261           (1)   County-owned covered buildings whose gross floor area equals or  
 262                   exceeds 50,000 square feet, Group 1 covered buildings, and Group  
 263                   2 covered buildings: Average of the 2 complete years with the  
 264                   highest normalized net site EUI between calendar year 2018 and  
 265                   calendar year [[2021]] 2022.

266           (2)    County-owned covered buildings whose gross floor area is at least  
 267                    25,000 square feet but not greater than 50,000 square feet, Group  
 268                    3, and Group 4 covered buildings: Average of the 2 complete years  
 269                    with the highest normalized net site EUI between calendar year  
 270                    [[2021]] 2022 and calendar year [[2023]] 2024.

271           (3)    Group 5 covered buildings: Average of the 2 complete years with  
 272                    the highest normalized net site EUI between calendar year [[2022]]  
 273                    2023 and calendar year [[2024]] 2025.

274           (4)    Newly constructed covered buildings: Average of the 2 complete  
 275                    years with the highest normalized net site EUI over the first 3 years  
 276                    of benchmarking reporting.

277    (d)    Interim and final performance standards.

278           (1)    No later than [[June 1, 2022]] December 31, 2023, the County  
 279                    Executive must issue Method (2) regulations establishing final  
 280                    performance standards for each building type using the normalized  
 281                    site EUI performance metric wherever feasible or site EUI if the  
 282                    Director determines that normalization is not practical.

283           (2)    The Department must calculate [[each]] interim performance  
 284                    standards for each covered building with the starting point set at  
 285                    the covered building’s performance baseline and continuing to the  
 286                    final performance standard.

287           (3)    Each covered building must demonstrate progress towards the  
 288                    final performance standard by complying with interim  
 289                    performance standards every [[4]] 5 years after the performance  
 290                    baseline year as follows:

291                   (A) County-owned covered buildings whose gross floor area  
292 equals or exceeds 50,000 square feet, Group 1, and Group 2  
293 covered buildings:

294                   (i) Interim performance standard: December 31,  
295 [[2027]] 2028, and evaluated with June 1, [[2027]]  
296 2029, benchmarking.

297                   (ii) Final performance standard: December 31, [[2034]]  
298 2033, and evaluated with June 1, [[2035]] 2034,  
299 benchmarking.

300                   (B) County-owned covered buildings whose gross floor area is  
301 at least 25,000 square feet but not greater than 50,000 square  
302 feet, Group 3, and Group 4 covered buildings:

303                   (i) Interim performance standard: December 31,  
304 [[2028]] 2030, evaluated with June 1, [[2029]] 2031.

305                   (ii) Final performance standard: December 31, [[2036]]  
306 2035, evaluated with June 1, [[2037]] 2036.

307                   (C) Group 5 covered buildings:

308                   (i) Interim performance standard: December 31,  
309 [[2029]] 2031, evaluated with June 1, [[2030]] 2032,  
310 benchmarking.

311                   (ii) Final performance standard: December 31, [[2037]]  
312 2036, evaluated with June 1, [[2038]] 2037.

313                   (D) Newly constructed buildings will be added to a coverage  
314 group (Group 1, Group 2, Group 3, Group 4, or Group 5)  
315 based on gross floor area and building type:

316                   (i) Interim performance [[standard]] standards:  
317 Evaluated with the [[first]] interim standard of the

318 building's coverage group following creation of the  
 319 performance baseline.

320 (ii) Final performance standard: Evaluated with the final  
 321 performance standard of the building's coverage  
 322 group, if the performance baseline is created before  
 323 the final performance standard.

324 (4) Covered buildings must maintain the final performance standards  
 325 established by regulation.

326 (5) Covered buildings must demonstrate compliance with the interim  
 327 and final performance standards by reporting building energy  
 328 benchmarking data to the Department using the benchmarking  
 329 tool. The Department must determine compliance by comparing  
 330 the performance metric against the interim or final performance  
 331 standards for the applicable building type.

332 **18A-42A. Building Performance Improvement Board.**

333 (a) Established. The County Executive must appoint, subject to  
 334 confirmation by the Council, a Building Performance Improvement  
 335 Board comprised of 15 voting members. Designees of the Department of  
 336 Environmental Protection, Department of General Services, Department  
 337 of Housing and Community Affairs, Department of Housing and  
 338 Community Development, and Department of Permitting Services are ex  
 339 officio nonvoting members of the Board.

340 (b) Membership. Each voting member of the Board must be a resident of the  
 341 County or a member of the governing body or staff of an entity doing  
 342 business in the County. The Board should include:

343 (1) Representatives of local electricity or natural gas utilities;

- 344           (2) Providers of energy efficiency, building resilience and/or  
 345           renewable energy services or consulting;
- 346           (3) Owners or managers of affordable housing;
- 347           (4) Owners or managers of multi-family residential buildings  
 348           containing market-rate units;
- 349           (5) Nonresidential building owners or managers;
- 350           (6) Nonprofit building owners or managers;
- 351           (7) Technical building design or operations professionals;
- 352           (8) Providers of facilities, mechanical, or similar engineering services;
- 353           (9) Commercial or multi-family residential construction finance or  
 354           investment professionals;
- 355           (10) Representatives of nonprofit organizations dedicated to climate  
 356           action, resiliency, public health, green building, economic  
 357           development, or building decarbonization; and
- 358           (11) Representatives of nonprofit organizations dedicated to racial  
 359           equity or environmental justice.
- 360       (c) Terms. Each voting member serves a 3-year term beginning on January  
 361       1. Of the members first appointed, one-third must be appointed for 1-  
 362       year terms, one-third must be appointed for 2-year terms, and one-third  
 363       must be appointed for 3-year terms. A member must not serve more than  
 364       2 consecutive full terms. A member appointed to fill a vacancy serves  
 365       the rest of the unexpired term. Members continue in office until their  
 366       successors are appointed and qualified. The Board must elect one of its  
 367       members as Chair to be who must serve as such for one calendar year or  
 368       until a successor is elected.

369 (d) Procedures. The Board must adopt rules to govern its procedures  
 370 including meeting frequency, managing Chair elections, establishing  
 371 committees, and other issues that pertain to Board governance.

372 (e) Duties and responsibilities. The Board must generally advise the  
 373 Department on implementation of building energy performance  
 374 standards. This includes providing recommendations to the Director on:

375 (1) Building type groupings;

376 (2) Interim and final performance standards for each building type;

377 (3) Managing situations where ownership of a building is transferred  
 378 or a building's type changes;

379 (4) Building performance improvement plan technical review and  
 380 approval processes;

381 (5) Complementary programs or policies, with particular attention to  
 382 assistance or accommodations for challenged or under-resourced  
 383 sectors, such as affordable housing, non-profit organizations, and  
 384 small businesses; and

385 (6) Enforcement of benchmarking requirements and performance  
 386 standards.

387 (f) Compensation. The members of the Board serve without compensation.

388 **18A-42B. Building performance improvement plans.**

389 (a) If a covered building owner cannot reasonably meet one or more of the  
 390 applicable interim or final performance standards due to economic  
 391 infeasibility or other circumstances beyond the owner's control, based on  
 392 guidelines established by regulation, the owner may submit a proposed  
 393 building performance improvement plan to the Department for review  
 394 and approval by the Director in consultation with the Building  
 395 Performance Improvement Board.



- 396        (b) A building performance improvement plan must include:
- 397            (1) documentation of economic infeasibility or other circumstances
- 398            beyond the owner’s control such that interim or final performance
- 399            standards are not met;
- 400            (2) a list of potential improvement measures, including engineering
- 401            calculations of energy savings and a cost-benefit analysis of each
- 402            potential improvement measure;
- 403            (3) a plan and timeline for achieving energy improvements to the
- 404            building’s performance that will provide cost-effective energy
- 405            savings based on guidelines established by regulation, including
- 406            the estimated savings to be realized by implementing all of the
- 407            cost-effective measures identified in the plan; and
- 408            (4) procedures for correcting any noncompliance or deviation from the
- 409            plan.
- 410        (c) The owner must submit a building performance improvement plan to the
- 411        Department at least 90 days before the deadline for submitting
- 412        documentation of compliance with interim or final performance
- 413        standards.
- 414        (d) If, after consulting with the Building Performance Improvement Board,
- 415        the Director approves the building performance improvement plan, the
- 416        owner must record the building performance improvement plan as a
- 417        covenant in the County land records and deliver a certified copy of the
- 418        recorded plan to the Department. After the Director receives the certified
- 419        copy of the recorded plan, the covered building will be deemed to be in
- 420        compliance with the applicable interim or final performance standards as
- 421        long as the owner fulfills the terms of the building performance
- 422        improvement plan within the timeline specified in the plan.

423 **18A-42C. Extensions and adjustments.**

424 (a) The Department may establish additional criteria recommended by the  
425 Building Performance Improvement Board for qualified affordable  
426 housing, non-profit buildings, and other buildings as appropriate to  
427 modify compliance with interim or final performance standards by  
428 regulation.

429 (b) The Director, in consultation with the Building Performance  
430 Improvement Board, may grant an extension or adjustment to an interim  
431 or final performance standard for a covered building whose owner  
432 submits a request along with documentation at least 90 days before the  
433 deadline for submitting documentation of compliance with an interim or  
434 final performance standard if any of the following conditions apply:

435 (1) A demolition permit has been issued or a demolition of the  
436 building is planned before the deadline to comply with the next  
437 interim performance standard;

438 (2) The building is in financial distress under Section 18A-39 (g)(1);

439 (3) The building is exempt from real property taxes and the owner is  
440 able to certify by the statement of a certified public accountant or  
441 by sworn affidavit that the owner's revenue less expenses for the  
442 previous 2 years was negative; [[or]]

443 (4) The Director determines that strict compliance with those  
444 standards would be economically infeasible, as defined by  
445 regulation, due to circumstances beyond the owner's control [.]];  
446 or

447 (5) Other acceptable conditions as determined by the Director through  
448 regulation.

449 **18A-[42]43. Annual report; disclosure of benchmarking and energy performance**  
450 **information.**

451 (a) *Annual report required.* By October 1 of each year, the Director must  
452 submit a benchmarking and building performance report to the County  
453 Executive and County Council. The report must review and evaluate  
454 energy efficiency in covered buildings, including:

455 (1) summary statistics on the most recent reported energy  
456 benchmarking information, including information on the  
457 completeness and level of data quality of the building energy data  
458 being reported by building type;

459 (2) discussion of any energy efficiency trends, cost savings, and job  
460 creation resulting from energy efficiency improvements; [and]

461 (3) for County-owned covered buildings:

462 (A) the scores of County-owned covered buildings  
463 benchmarked; and

464 (B) whether the Director recommends any energy efficiency  
465 improvements for specific buildings; and

466 (4) building energy performance summary statistics, if an interim or  
467 final performance standard occurs for a covered building type in  
468 the current reporting cycle.

469 (b) *Disclosure of benchmarking and building energy performance standards*  
470 *[information] data.* The Director must make reported aggregated  
471 benchmarking and building energy performance standard [information]  
472 data readily available to the public, including on the open data website  
473 created under Section 2-154, and the Director may exempt information  
474 from disclosure only to the extent that disclosure is prohibited under  
475 federal or state law.

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

478 (1) any individually [-] attributable reported benchmarking  
 479 information from the first calendar year that a covered building is  
 480 required to benchmark; [and]

481 (2) any individually [-] attributable reported benchmarking or building  
 482 energy performance standards information relating to a covered  
 483 building if the disclosure of the covered building's energy use  
 484 would be harmful to the public interest and national security [that  
 485 contains a data center, or television studio that together exceeds  
 486 10% of the total building square footage of the individual building  
 487 until the Director finds that the benchmarking tool can make  
 488 adequate adjustments for these facilities. When the Director finds  
 489 that the benchmarking tool can make adequate adjustments, the  
 490 Director must report this data in the annual report]; and

491 (3) building performance improvement plans and associated  
 492 documentation attributable to an individual covered building.

493 **18A-[43]43A. Regulations[; penalties].**

494 [(a)] The County Executive may issue Method (2) regulations to administer  
 495 this Article.

496 [(b)] Any violation of this Article is a Class A violation.]

497 **18A-43B. Penalties; enforcement.**

498 (a) A building owner must not knowingly provide false information required  
 499 under this Article to the Department. The Director may revoke or modify  
 500 an extension, adjustment, building performance improvement plan, or  
 501 compliance with benchmarking or the interim or final performance

502           standards in response to any false information provided by the building  
503           owner.

504           (b) Any violation of this Article is a Class A violation.

505 **40-10B. Disclosure of covered building benchmarking and performance**  
506 **standards information.**

507           (a) Before a buyer signs a contract for the sale of a covered building as  
508           defined in Section 18A-38A, the seller must:

509           (1) disclose to the prospective buyer that the building is subject to  
510           building energy performance standards in Chapter 18A, Article 6;

511           (2) transfer the following records to the prospective buyer:

512           (A) the benchmarking property record from the benchmarking  
513           tool;

514           (B) documentation of data verification; and

515           (C) any other related records relevant to maintain compliance  
516           with Chapter 18A, Article 6; and

517           (3) provide to the prospective buyer the following information:

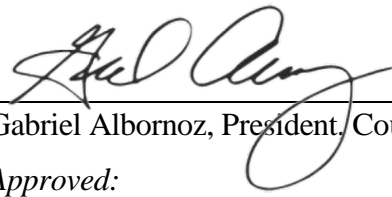
518           (A) performance baseline;

519           (B) interim and final performance standards; and

520           (C) building performance improvement plan.

521           (b) The prospective buyer must indicate, by signing an addendum to the  
522           contract or a separate section of the contract printed in boldface type, that  
523           the seller has made the disclosures and provided the information required  
524           by subsection (a).

*Approved:*

  
\_\_\_\_\_  
Gabriel Albornoz, President, County Council  
*Approved:*

4/22/2022

Date

\_\_\_\_\_  
Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Selena Mendy Singleton, Esq., Clerk of the Council

Date