

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: November 24, 2015  
Effective: February 23, 2016  
Sunset Date: None  
Ch. 51, Laws of Mont. Co. 2015

## 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

<b>Boldface</b>	<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:*



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

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

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

38 \* \* \*

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

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

48 \* \* \*

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

\* \* \*

54  
55 [Gross floor area] Total building square footage means the sum of the gross  
56 horizontal area of the several floors of a building or structure measured from  
57 the exterior faces of the exterior walls or from the center line of party walls.  
58 In a covered but unenclosed area, such as a set of gasoline pumps or a drive-  
59 through area, gross floor area means the covered area. [Gross floor area]

60 Total building square footage does not include any:

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

66 **18A-39. Energy use benchmarking.**

- 67 (a) *County buildings.* No later than June 1, 2015, and every June 1  
68 thereafter, the County must benchmark [all buildings owned by the]  
69 County buildings for the previous calendar year and report the  
70 benchmarking information to the Department.
- 71 (b) *Group 1 covered buildings.* No later than [December] June 1, 2016,  
72 and every [December] June 1 thereafter, the owner of any Group 1  
73 covered building must benchmark the building for the previous  
74 calendar year[. The owner must] and report the benchmarking  
75 information to the Department [no later than January 1 each year].
- 76 (c) *Group 2 covered buildings.* No later than [December] June 1, 2017,  
77 and every [December] June 1 thereafter, the owner of any Group 1  
78 covered building must benchmark the building for the previous  
79 calendar year[. The owner must] and report the benchmarking  
80 information to the Department [no later than January 1 each year].

\* \* \*

81

82 **18A-40. Data Verification.**

83 (a) *Verification required.* Before the first benchmarking deadline required  
 84 by Section 18A-39, and before each third benchmarking deadline  
 85 thereafter, the owner of each covered building must assure that reported  
 86 benchmarking information for that year is verified by a [licensed  
 87 professional] recognized data verifier. The verification must be a  
 88 [stamped and] signed statement by a [licensed professional] recognized  
 89 data verifier attesting to the accuracy of the information. If the Director  
 90 requests, the owner of a covered building must produce the statement  
 91 available for the most recent year in which verification was required.

92 (b) [*Waiver*] Alternative Verification Path. The Director may waive the  
 93 verification requirement [of] under this Section if the owner [shows that  
 94 compliance with this Section will cause undue financial hardship. If a  
 95 no-cost or low-cost verification option is available, the Director may  
 96 require the owner to use the alternative option] can demonstrate that the  
 97 building has achieved ENERGY STAR Certification for at least 6  
 98 months of the year being benchmarked.

99 **18A-42. Annual report; disclosure of benchmarking information.**

100 (a) *Annual report required.* By October 1 of each year, the Director must  
 101 submit a benchmarking report to the County Executive and County  
 102 Council. The report must review and evaluate energy efficiency in  
 103 covered buildings, including:

104 (1) summary statistics on the most recent reported energy  
 105 benchmarking information, including information on the  
 106 completeness and level of data quality of the building energy data  
 107 being reported by building type per the benchmarking tool;

\* \* \*

108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134

- (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*  
Isiah Leggett, County Executive

*11/24/2015*  
Date

*This is a correct copy of Council action.*

*Linda M. Lauer*

*11/27/15*

Linda M. Lauer, Clerk of the Council

Date