



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, September 29, 2020

The County Council for Montgomery County, Maryland convened via video conference at 9:32 A.M. on Tuesday, September 29, 2020.

PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Albornoz
Councilmember Evan Glass
Councilmember Nancy Navarro

Councilmember Tom Hucker, Vice President
Councilmember Andrew Friedson
Councilmember Will Jawando
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.](#)

(2) B. **Acknowledgement - [Receipt of Petitions](#)**

Acknowledged receipt of petitions from residents of Montgomery County supporting ZTA 20-01, Solar Collection System - AR Zone Standards; opposing **Bill 29-20**, Taxation - Payments in Lieu of Taxes - WMATA Property - Established, and opposing **Bill 39-20**, Taxation - Recordation Tax - Amendments.

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.

(3) **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.
- E. Adopted **Resolution 19-601**, amending the FY21 Operating Budget Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status - Effective Law Enforcement for All, Inc.

- 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.

(6) **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.

(8) **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.

(9) **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.

(10) **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.

(11) **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.

**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:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

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:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

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:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

(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

Bill No. 6-20
 Concerning: Solid Waste (Trash) –
 Release of Balloons - Prohibited
 Revised: 01/27/2020 Draft No. 4
 Introduced: February 25, 2020
 Enacted: September 29, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Hucker

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.

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. Sections 48-59, 48-60, 48-61, and 48-62 are added as follows:

2 **ARTICLE VII. PROHIBITED RELEASE OF BALLOONS**

3 **48-59. Definitions.**

4 (a) In this Article, the following terms have the meanings indicated.

5 (b) Terms defined.

6 Balloon means an inflatable object:

7 (A) manufactured from plastic, latex, rubber, or mylar; and

8 (B) inflated with a gas that is lighter than air, such as helium.

9 Balloon does not include a hot-air balloon.

10 Department means the Department of Environmental Protection.

11 Director means the Director of the Department or the Director's
12 designee.

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

14 Person includes the County and its agencies.

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

17 **48-60. Prohibition.**

18 (a) Except as provided in subsection (b), a person while in the County must
19 not release or cause to be released a balloon into the air of the County.

20 (b) This section does not prohibit the release of a balloon that is:

21 (1) released unintentionally;

22 (2) released by a minor child without the permission of an adult;

23 (3) used for scientific or meteorological purposes; or

24 (4) used solely indoors.

25 **48-61. Education and Outreach.**

26 (a) The Director must conduct education and outreach regarding
27 implementation of this Article.

28 (b) The education and outreach should include:

29 (1) direct contact with affected businesses and organizations; and

30 (2) distribution of information through the County website.

31 **48-62. Enforcement.**

32 (a) The Department must administer and enforce this Article.

33 (b) A person who violates Section 48-60 is guilty of a Class A civil violation
34 under Section 1-19.

- 35 (c) Each release of 50 or fewer balloons at one time in violation of Section
36 48-60 is a separate civil violation.
- 37 (d) Presumption of responsibility. [[The owner of private property from
38 which a balloon is released in violation of Section 48-60 is presumed to
39 be]] There is a rebuttable presumption that the owner of private property
40 from which a balloon in released in violation of Section 48-60 is
41 responsible for the violation if the enforcement officer cannot determine
42 which [[occupant of the property]] person released the balloon.
- 43 (e) Regulations. The Executive may adopt regulations under Method (2) to
44 administer and enforce this Article.

Bill No. 10-20
Concerning: Property Tax Credit –
Energy and Environmental
Design – Eligibility Criteria and
Amounts of Credit
Revised: 09/10/2020 Draft No.
4
Introduced: March 3, 2020
Enacted: September 29, 2020
Executive: _____
Effective: _____
Sunset Date: See Section 2
Ch. _____, Laws of Mont. Co.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmembers Friedson and Riemer
Co-Sponsor: Council President Katz

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

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:

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

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

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

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

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

43 BRE Global means the Building Research Establishment Global.

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

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

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

50 Director means the Director of the Department of Finance or the
51 Director's designee.

52 Energy-efficient building means a non- residential or multi-family
53 residential building that: (1) has or will have at least 10,000 square feet
54 of gross floor area; (2) has received a Certificate of Occupancy from the
55 Department of Permitting Services; (3) has achieved at least a minimum
56 50 percent occupancy rate for at least 12 consecutive months; and (4) has
57 demonstrated energy improvements consistent with the requirements of
58 this Section.

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

61 ENERGY STAR Data Verification Checklist means a report generated in

62 the ENERGY STAR Portfolio Manager tool to document property use
63 details and energy consumption.

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

67 ENERGY STAR Score means the numerical measure of a building's
68 energy use generated through the use of ENERGY STAR Portfolio
69 Manager.

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

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

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

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

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

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

85 USGBC means the United States Green Building Council.

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

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

91 (1) a description of the energy conservation device installed in the
92 building;

- 93 (2) the ENERGY STAR Portfolio Manager Data Verification
94 Checklists documenting the baseline and improved (within the
95 past year) ENERGY STAR scores of an existing energy-efficient
96 building, signed by an accredited building professional; and
- 97 (3) if the Building Sustainability Tax Credit is sought, verified
98 documentation demonstrating qualification within the past year
99 for the Building Sustainability Tax Credit in subsection (f).
- 100 (e) Energy Reduction Tax Credit.
- 101 (1) An energy-efficient building may receive an Energy Reduction
102 Tax Credit for achieving energy use reductions under this
103 subsection and, if that credit is granted, may receive an additional
104 Building Sustainability Tax Credit under subsection (f).
- 105 (2) For the Energy Reduction Tax Credit, the percentage of the annual
106 County property tax credit, awarded for 2 years, is calculated by
107 subtracting an energy-efficient building’s 12-month baseline
108 ENERGY STAR score from the improved 12-month ENERGY
109 STAR score, then multiplying the difference by the multiplier
110 below based on the improved ENERGY STAR score:
- 111 (A) if the improved ENERGY STAR score falls between 1-24,
112 multiply the difference by 1.0;
- 113 (B) if the improved ENERGY STAR score falls between 25-
114 49, multiply the difference by 1.5;
- 115 (C) if the improved ENERGY STAR score falls between 50-
116 74, multiply the difference by 2.0; or
- 117 (D) if the improved ENERGY STAR score falls between 75-
118 100, multiply the difference by 2.5.
- 119 (3) Baseline and Improved ENERGY STAR Score 12-month time
120 periods must not overlap and must not be more than 6 calendar
121 years apart.
- 122 (4) The Baseline ENERGY STAR Score 12-month time period must
123 not begin earlier than August 26, 2018. Baseline and Improved

124 ENERGY STAR Score 12-month time periods must use the same
125 ENERGY STAR score metric reference data.

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

129 (f) Building Sustainability Tax Credit.

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

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

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

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

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

150 (h) Annual limits. In any fiscal year, the Director must not award more than
151 \$5 million in total tax credits granted to all buildings under this Section.

152 (i) Reapplications.

153 (1) The owner of an energy-efficient building awarded a tax credit
154 under this Section may reapply twice after the initial 2-year credit

155 cycle. The maximum number of applications a building owner
156 may submit is 3, consisting of 1 initial application and 2
157 reapplications.

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

169 (j) Credit Review.

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

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

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

180 **52-103B. Property tax credit - newly constructed energy-efficient buildings**

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

182 (1) encourage building owners to increase the energy performance of
183 newly constructed buildings beyond current Building and Zoning
184 Code requirements at time of application;

- 185 (2) incentivize building owners to reduce the energy and climate
186 impacts of newly constructed buildings, as the built environment
187 generates more than half of the County’s measured community-
188 wide greenhouse gas emissions;
- 189 (3) advance the County’s aggressive climate goals of an 80 percent
190 reduction in greenhouse gas emissions by 2027 and zero
191 emissions by 2035;
- 192 (4) institute regular review of the tax credits outlined in this Section
193 to ensure that they are meeting the goals under paragraphs (1)
194 through (3); and
- 195 (5) implement a tax credit under Section 9-242(a) of the Tax-Property
196 Article of the Maryland Code, as amended.
- 197 (b) Applicability. The credit authorized by this Section applies to any tax year
198 beginning January 1, 2022.
- 199 (c) Definitions. In this Section the following words have the meanings
200 indicated:
- 201 BRE Global means the Building Research Establishment Global.
202 BREEAM means the Building Research Establishment Environmental
203 Assessment Method rating system administered by BRE Global.
204 New Building Sustainability Tax Credit is the property tax credit received
205 for earned building certifications described in this Section.
206 Director means the Director of the Department of Finance or the
207 Director’s designee.
208 Newly constructed energy-efficient building means:
- 209 (A) An unoccupied non-residential or multi-family residential
210 “core and shell” building, of at least 10,000 square feet in
211 gross floor area, with full mechanical systems, electrical
212 distribution infrastructure, and a weather-sealed thermal
213 envelope that has achieved substantial completion and
214 received a Certificate of Occupancy from the Department
215 of Permitting Services within the past year;

216 (B) A newly constructed non-residential or multifamily
217 building, of at least 10,000 square feet in gross floor area,
218 that has achieved substantial completion and received a
219 Certificate of Occupancy from the Department of
220 Permitting Services within the past year; or

221 (C) A non-residential or multifamily building, of at least
222 10,000 square feet in gross floor area, that has undergone a
223 major renovation that warrants bringing the entire building
224 up to current Building Code standards and has received
225 final inspection and approval from the Department of
226 Permitting Services.

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

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

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

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

237 PassiveHouse means the PassiveHouse standard administered by PHIUS.

238 PHIUS means the PassiveHouse Institute US.

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

241 USGBC means the United States Green Building Council.

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

245 (e) Application.

- 246 (1) An application by the owner of a newly constructed energy-
247 efficient building for a tax credit must be in the form prescribed
248 by the Director and must include:
- 249 (A) a certification from the Department of Permitting Services
250 within the past year indicating the percentage performance
251 above current Building Code requirements at time of
252 application demonstrated by the newly constructed energy-
253 efficient building; and
- 254 (B) if the New Building Sustainability Tax Credit is sought,
255 verified documentation demonstrating qualification within
256 the past year for the New Building Sustainability Tax
257 Credit.
- 258 (2) A building owner that has received either a New Building Energy
259 Reduction Tax Credit or a New Building Sustainability Tax Credit
260 may not reapply for either credit for the same newly constructed
261 building in any later tax year.
- 262 (f) *New Building Energy Reduction Tax Credit.*
- 263 (1) A newly constructed energy-efficient building may receive an
264 Energy Reduction Tax Credit for achieving energy use reductions
265 as outlined in this subsection and, if that credit is granted, may
266 receive an additional Building Sustainability Tax Credit as
267 described in subsection (g).
- 268 (2) To be eligible for the New Building Energy Reduction Tax Credit,
269 a newly constructed energy-efficient building owned by the
270 applicant must achieve a minimum 10 percent increase in energy
271 performance above the current applicable Building and Zoning
272 Code requirements at time of application using an energy
273 modeling software approved by the Department of Permitting
274 Services.
- 275 (3) For the New Building Energy Reduction Tax Credit, the
276 percentage of the annual County property tax credit awarded for 4

277 years is calculated by rounding a newly constructed energy-
278 efficient building's performance above Building Code and Zoning
279 Code requirements to the nearest whole number and multiplying it
280 by the multiplier below:

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

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

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

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

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

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

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

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

- 307 (C) 75% of the property tax owed on the building for 5 years if
308 the building achieves the most recent version available of
309 Living Building Certification.
- 310 (2) To be approved for the New Building Sustainability Tax Credit,
311 an energy-efficient building must also be approved for the New
312 Building Energy Reduction Tax Credit.
- 313 (h) Total Maximum Credit. The maximum credit under this Section that an
314 energy-efficient building may be granted in any fiscal year must not
315 exceed 100% of the building's annual property tax liability.
- 316 (i) Credit Review.
- 317 (1) By October 1 of each year, the Director must prepare a report on
318 the status of the New Building Energy Reduction Tax Credit and
319 the New Building Sustainability Tax Credit.
- 320 (2) Every 3 years, the County Executive must submit a report to the
321 Council reviewing the effectiveness of the New Building Energy
322 Reduction Tax Credit and the New Building Sustainability Tax
323 Credit and making recommendations on any credit alterations.
- 324 (j) Regulations. The County Executive may issue regulations under method
325 (2) to administer the New Building Energy Reduction Tax Credit and the
326 New Building Sustainability Tax Credit.
- 327 **Sec. 2. Sunset Clause. Section 52-103 of the County Code must sunset,**
328 **and must and have no further force and effect, on January 1, 2025.**

