

Bill No. 30-07
Concerning: Buildings - Energy Efficiency
Revised: 11/19/07 Draft No. 10
Introduced: November 20, 2007
Expires: May 20, 2009
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Berliner, Council President Praisner, and Councilmembers Elrich, Floreen, and Trachtenberg

AN ACT to:

- (1) require certain commercial, multi-family residential, and single-family residential buildings to meet certain ENERGY STAR standards;
- (2) require the Director of the Department of Public Works and Transportation to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;
- (3) require that each energy unit savings plan and energy cost savings plan include a plan for using an energy performance contract unless the Director finds that the cost of using an energy performance contract outweighs the benefit;
- (4) require a building owner to pay an Environmental Sustainability Fee if the building does not comply with certain energy efficiency and environmental design standards; and
- (5) generally amend the law relating to buildings, energy, and environmental policy.

By adding
Montgomery County Code
Chapter 8, Buildings
Section 8-14B and 8-14C

By amending
Montgomery County Code
Chapter 8, Buildings
Article VII. Energy Efficiency and Environmental Design
Sections 8-48, 8-49, 8-50, and 8-51

By adding
Montgomery County Code
Chapter 8, Buildings
Article VIII. Energy Efficiency

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. Section 8-14B and Section 8-14C are added as follows:**

2 **8-14B. County buildings – energy unit savings plans, energy cost savings**
3 **plans, and energy performance contracts.**

4 (a) *Definitions.* In this Section, the following words have the meanings
5 indicated:

6 “County building” means a building which is owned or leased by the
7 County.

8 “Department” means the Department of Public Works and
9 Transportation.

10 “Director” means the Director of the Department or the Director’s
11 designee.

12 “Energy baseline” means the amount of energy consumed each year
13 by a County building based on historical metered data, engineering
14 calculations, submetering of buildings or energy consuming systems,
15 building load simulation models, statistical regression analysis, or any
16 combination of those methods.

17 “Energy cost savings plan” means a plan to reduce a County
18 building’s energy costs, including related operation and maintenance
19 costs.

20 “Energy performance contract” means a contract which provides for
21 the performance of services for the design, acquisition, installation,
22 testing, operation, maintenance, or repair of an identified energy
23 conservation measure or series of measures in a County building.

24 “Energy unit savings plan” means a plan to reduce the amount of
25 energy used by a County building, as measured in kilowatt hours or
26 British thermal units.

27 (b) Requirements. The Director must:

28 (1) Develop an energy baseline, energy unit savings plan, and energy
29 cost savings plan for each County building;

30 (2) Submit an initial report to the County Executive and County
31 Council by September 1, 2008 which summarizes the energy
32 baseline, energy unit savings plan, and energy cost savings plan
33 for each County building; and

34 (3) Submit an annual report to the County Executive and County
35 Council by September 1 of each year that summarizes the steps
36 taken in the preceding fiscal year to implement the energy unit
37 savings plan and energy cost savings plan for each County
38 building.

39 (c) Energy performance contracts. Each energy unit savings plan and
40 energy cost savings plan that the Director prepares under subsection (b)
41 must include a plan to use an energy performance contract unless the
42 Director finds that the cost of using an energy performance contract
43 outweighs the benefit.

44 **8-14C. Private buildings – incentives**

45 (a) Study. The Director must evaluate options for creating incentives for
46 the owners of commercial, multi-family residential, or single-family
47 residential buildings to modify the buildings to increase their energy
48 efficiency.

49 (b) Report. The Director must submit a report to the County Executive
 50 and County Council by July 1, 2008 regarding the Director’s findings
 51 and recommendations.

52 **Sec. 2.** **The title to Article VII of Chapter 8 and Section 8-48, Section 8-**
 53 **49, Section 8-50, and Section 8-51 are amended as follows:**

54 **[ARTICLE VII. ENERGY EFFICIENCY AND ENVIRONMENTAL**
 55 **DESIGN.] Article VII. Energy Efficiency and Environmental Design.**

56 **8-48. Definitions.**

57 In this Article, in addition to any term defined elsewhere in this Chapter [or in
 58 regulations adopted under this Chapter], the following words have the meanings
 59 indicated:

60 * * *

61 “ENERGY STAR rating” means the ENERGY STAR rating developed by the
 62 federal Environmental Protection Agency which reflects a building’s energy
 63 efficiency.

64 * * *

65 “National energy performance rating system” means the rating system
 66 developed by the federal Environmental Protection Agency under which a
 67 building may obtain the ENERGY STAR rating.

68 * * *

69 “Professional engineer” means an engineer who is licensed by the State of
 70 Maryland.

71 “Temporary use and occupancy certificate” means a certificate that authorizes
 72 the use and occupancy of a building for up to 18 months.

73 **8-49. Standards and requirements.**

- 74 (a) County buildings. Any County building must, in addition to any action
75 required under Section 8-14A, achieve:
- 76 (1) [a] A silver-level rating in the appropriate LEED rating system,
77 as certified by the Green Building Council;
- 78 (2) [a] A silver-level rating in the appropriate LEED rating system,
79 as verified by the Director or a qualified person approved by the
80 Director; or
- 81 (3) [energy] Energy and environmental design standards that the
82 Director identifies as equivalent to a silver-level rating in the
83 appropriate LEED rating system, as verified by the Director or
84 a qualified person approved by the Director.
- 85 (b) Other covered buildings. Any other covered building must achieve:
- 86 (1) [a] A certified-level rating in the appropriate LEED rating
87 system, as certified by the Green Building Council;
- 88 (2) [a] A certified-level rating in the appropriate LEED rating
89 system, as verified by the Director or a qualified person
90 approved by the Director; or
- 91 (3) [energy] Energy and environmental design standards that the
92 Director identifies as equivalent to a certified-level rating in the
93 appropriate LEED rating system, as verified by the Director or
94 a qualified person approved by the Director.
- 95 (c) Energy efficiency. In addition to complying with subsection (a) or (b),
96 any covered building must achieve the ENERGY STAR rating under
97 the national energy performance rating system.

98 (d) Additions. However, for any building for which an application for all
 99 necessary building permits was filed before September 1, 2008, any
 100 later addition to that building must achieve the requirements of a
 101 subsection (a) or (b), whichever applies, and subsection (c) only if the
 102 addition would increase the building's:

- 103 (1) [land] Land coverage by at least 100%; and
- 104 (2) [gross] Gross floor area by at least 10,000 square feet.

105 **8-50. Building permits; [use-and-occupancy permit] use and occupancy**
 106 **certificates.**

107 (a) Design plans. The applicant for a building permit for a covered
 108 building must submit to the Department:

109 (1) [design] Design plans for the building which are likely to
 110 achieve the applicable standard under:

- 111 (A) [Section 8-49] Section 8-49(a) or (b), whichever applies,
 112 as certified or otherwise approved by the Green Building
 113 Council or verified by the Director or a qualified person
 114 designated by the Department; and
- 115 (B) Section 8-49(c), as verified by a professional engineer;
 116 and

117 (2) [any] Any other document or information the Department finds
 118 necessary to decide whether the building will achieve the
 119 applicable [standard] standards under Section 8-49.

120 (b) Building permit. The Department must require compliance with
 121 Section 8-49 as a condition of any building permit issued for a
 122 covered building.

123 (c) Final use and occupancy certificate. The Department must not issue a
 124 final [certificate of] use and occupancy certificate for a covered
 125 building unless it finds that the building has achieved the applicable
 126 [standard] standards under Section 8-49.

127 (d) Temporary use and occupancy certificate. If a covered building has
 128 not achieved the applicable standards under Section 8-49 but the
 129 Department finds that a process is in place to achieve those standards
 130 within 18 months, the Department may issue a temporary use and
 131 occupancy certificate which is valid for up to 18 months.

132 (e) Environmental Sustainability Fee.

133 (1) If a temporary use and occupancy certificate expires before a
 134 covered building complies with the applicable standards under
 135 Section 8-49, the building owner must pay an Environmental
 136 Sustainability Fee that is equal to the cost of bringing the
 137 building into compliance.

138 (2) The fees collected under paragraph (1) must be used to fund
 139 programs that help mitigate the energy and environmental
 140 impacts of buildings.

141 **8-51. Regulations.**

142 The County Executive must adopt regulations under method (2) to
 143 administer this Article. Those regulations must specify:

144 (a) [the] The LEED rating system, and any equivalent energy and
 145 environmental design standard, that applies to each type of covered
 146 building under [Section 8-49] Section 8-49(a) and (b).

- 147 (b) [the] The process to verify that a covered building complies with any
 148 applicable standard under Section 8-49, including the types of persons
 149 who are qualified to verify compliance;
- 150 (c) [any] Any standards and procedures under which the Director may
 151 approve full or partial waivers of Section 8-49 when compliance
 152 would be impractical or unduly burdensome and the public interest
 153 would be served by the waiver; [and]
- 154 (d) The methodology that the Department will use to determine the
 155 amount of the Environmental Sustainability Fee that must be paid
 156 under Section 8-50(e); and
- 157 (e) [standards] Standards and procedures for any enforcement
 158 mechanism[, such as a performance bond,] that the Department finds
 159 necessary to accomplish the purposes of this Article.

160 **Sec. 3. Article VIII is added to Chapter 8 as follows:**

161 **Article VIII. Energy Efficiency**

162 **8-53. Definitions.**

163 In this Article, the following words have the meanings indicated:

164 “Covered building” means a newly constructed:

- 165 (1) Single-family residential building; or
- 166 (2) Multi-family residential building which is:
 - 167 (A) Not a covered building under Section 8-48; and
 - 168 (B) Eligible to earn the ENERGY STAR rating.

169 “Department” means the Department of Environmental Protection.

170 “Director” means the Director of the Department or the Director’s designee.

171 “ENERGY STAR rating” means the ENERGY STAR rating developed by the
 172 federal Environmental Protection Agency which measures a building’s energy
 173 efficiency.

174 “Home Energy Rating System” or “HERS” means the energy efficiency rating
 175 system for residential buildings developed by RESNET.

176 “Qualified home energy performance rater” means an individual who:

177 (1) Is certified by RESNET as a home energy performance rater; or

178 (2) Meets other equivalent requirements approved by the Director.

179 “RESNET” means the Residential Energy Services Network.

180 “Performance path” means the process developed by the federal
 181 Environmental Protection Agency under which a building may achieve the
 182 ENERGY STAR rating if it:

183 (1) Achieves the applicable HERS index score; and

184 (2) Is verified and field-tested by a qualified home energy
 185 performance rater.

186 “Prescriptive path” means the process developed by the federal Environmental
 187 Protection Agency under which a building may achieve the ENERGY STAR
 188 rating if it:

189 (1) Complies with the applicable ENERGY STAR Builder Option
 190 Package; and

191 (2) Is verified and field-tested by a qualified home energy
 192 performance rater.

193 **8-54. ENERGY STAR standard.**

194 A covered building must achieve the ENERGY STAR rating under the
 195 performance or prescriptive path.

196 **8-55. Building permits; use and occupancy certificates.**

197 (a) Design plans. An applicant for a building permit for a covered
198 building must submit to the Department:

199 (1) Design plans for the building that are likely to achieve the
200 standard under Section 8-54, as certified by a qualified home
201 energy performance rater; and

202 (2) Any other document or information the Department finds
203 necessary to decide whether the building will achieve the
204 standard under Section 8-54.

205 (b) Building permit. The Department must require compliance with
206 Section 8-54 as a condition of any building permit issued for a
207 covered building.

208 (c) Final use and occupancy certificate. The Department must not issue a
209 final use and occupancy certificate for a covered building unless it
210 finds that the building complies with Section 8-54.

211 (d) Temporary use and occupancy certificate. If a covered building does
212 not comply with Section 8-54 but the Department finds that a process
213 is in place to achieve compliance within 18 months, the Department
214 may issue a temporary use and occupancy certificate which is valid
215 for up to 18 months.

216 (e) Environmental Sustainability Fee.

217 (1) If a temporary use and occupancy certificate expires before a
218 covered building complies with Section 8-54, the building
219 owner must pay an Environmental Sustainability Fee that is
220 equal to the cost of bringing the building into compliance.

221 (2) The fees collected under paragraph (1) must be used to fund
 222 programs that help mitigate the energy and environmental
 223 impacts of buildings.

224 **8-56. Regulations.**

225 The County Executive must adopt regulations under method (2) to
 226 administer this Article. Those regulations must specify:

227 (a) Any process for becoming a qualified home energy performance rater
 228 that the Director finds is equivalent to the RESNET certification
 229 process;

230 (b) Any standards and procedures under which the Director may approve
 231 full or partial waivers of Section 8-54 when compliance would be
 232 impractical or unduly burdensome and the waiver would serve the
 233 public interest;

234 (c) The methodology that the Department will use to determine the
 235 amount of the Environmental Sustainability Fee that must be paid
 236 under Section 8-55(e); and

237 (d) Standards and procedures for any enforcement mechanism that the
 238 Department finds necessary to accomplish the purposes of this Article.

239 **Sec. 3. Applicability; initial regulations.**

240 (a) Section 8-49(c), as added by Section 2 of this Act, applies to any
 241 covered building, other than a County building, for which a building
 242 permit application is filed on or after January 1, 2009.

243 (b) Section 8-49(c), as added by Section 2 of this Act, applies to any
 244 County building for which design funding is first included in the
 245 appropriate capital budget for fiscal year 2009 or any later fiscal year,

246 or, if design funding is not directly included in the capital budget, for
247 which a building permit application is filed on or after January 1, 2009.

248 (c) Section 8-54, as added by Section 3 of this Act, applies to any covered
249 building for which a building permit application is filed on or after
250 January 1, 2009.

251 (d) By March 15, 2008, the County Executive must adopt, and submit to the
252 Council under County Code Section 2A-15, regulations required by
253 Section 8-51, as amended by Section 2 of this Act, and Section 8-56, as
254 added by Section 3 of this Act.

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256 *Approved:*

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259 Marilyn J. Praisner, President, County Council Date

260 *Approved:*

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Isaih Leggett, County Executive Date

262 *This is a correct copy of Council action.*

263

Linda M. Lauer, Clerk of the Council Date

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