

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

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

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**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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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:*

261

\_\_\_\_\_   
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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