

CORRECTED COPY

Bill No. 30-07
Concerning: Buildings - Energy Efficiency
Revised: 4/22/2008 Draft No. 12
Introduced: November 20, 2007
Enacted: April 22, 2008
Executive: May 5, 2008
Effective: August 4, 2008
Sunset Date: None
Ch. 7, Laws of Mont. Co. 2008

**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)]] (1) require the [[Director of the Department of Public Works and Transportation]] Sustainability Working Group to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;
- [[(3)]] (2) require that each energy unit savings plan and energy cost savings plan include a plan for using an energy performance contract unless the [[Director]] Sustainability Working Group finds that the cost of using an energy performance contract outweighs the benefit; and]]
- [[(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)]] (3) require certain residential buildings to meet certain ENERGY STAR standards;
and
(4) 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

Clerk's Note: Paragraph numbers corrected to 1 and 2 in lines 303 and 304.

Article VIII. Energy Efficiency]]

By adding

Montgomery County Code
Charter 8, Buildings
Section 8-53

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 STAR rating” means the ENERGY STAR rating developed
25 by the federal Environmental Protection Agency which reflects a
26 building’s energy efficiency.

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

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

33 “Sustainability Working Group” means the Group defined in Section
34 18A-13.

35 (b) Requirements. The [[Director]] Sustainability Working Group must:

- 36 (1) develop an energy baseline, energy unit savings plan, and energy
37 cost savings plan for each County building;
- 38 (2) submit an initial report to the County Executive and County
39 Council by [[September 1, 2008]] January 15, 2009 which
40 summarizes the energy baseline, energy unit savings plan, and
41 energy cost savings plan for each County building; and
- 42 (3) submit an annual report to the County Executive and County
43 Council by [[September 1]] January 15 of each year that
44 summarizes the steps taken in the preceding fiscal year to
45 implement the energy unit savings plan and energy cost savings
46 plan for each County building.

47 (c) Energy performance contracts. Each energy unit savings plan and
48 energy cost savings plan that the [[Director]] Sustainability Working
49 Group prepares under subsection (b) must include a plan to use an
50 energy performance contract unless the [[Director]] Sustainability
51 Working Group finds that the cost of using an energy performance
52 contract outweighs the benefit.

53 **8-14C. Private buildings – incentives**

- 54 (a) Study. The [[Director]] Sustainability Working Group must evaluate:
- 55 (1) options for creating incentives for the owners of commercial,
- 56 multi-family residential, or single-family residential buildings
- 57 to modify the buildings to increase their energy efficiency[.]
- 58 and
- 59 (2) options to [[encourage builders of multi-family residential or
- 60 single-family residential buildings to achieve]] minimize the
- 61 impact on affordable housing of achieving the ENERGY STAR
- 62 rating under the national energy performance rating system.
- 63 (b) Report. The [[Director]] Sustainability Working Group must submit a
- 64 report to the County Executive and County Council by [[July 1,
- 65 2008]] January 15, 2009 regarding the [[Director]] Group’s findings
- 66 and recommendations.

67 **Sec. 2. The title to Article VII of Chapter 8 and Section 8-48, Section**

68 **8-49, Section 8-50, and Section 8-51 are amended as follows:**

69 **[ARTICLE VII. ENERGY EFFICIENCY AND ENVIRONMENTAL**

70 **DESIGN.] Article VII. Energy Efficiency and Environmental Design.**

71 **8-48. Definitions.**

72 In this Article, in addition to any term defined elsewhere in this Chapter [or in

73 regulations adopted under this Chapter], the following words have the meanings

74 indicated:

75 * * *

76 [[“ENERGY STAR rating” means the ENERGY STAR rating developed by

77 the federal Environmental Protection Agency which reflects a building’s

78 energy efficiency.]]

79 * * *

80 [[“National energy performance rating system” means the rating system
 81 developed by the federal Environmental Protection Agency under which a
 82 building may obtain the ENERGY STAR rating.]]

83 * * *

84 [[“Professional engineer” means an engineer who is licensed by the State of
 85 Maryland.]]

86 [[“Temporary use and occupancy certificate” means a certificate that
 87 authorizes the use and occupancy of a building for up to 18 months.]]

88 **8-49. Standards and requirements.**

89 (a) County buildings. Any County building must, in addition to any action
 90 required under Section 8-14A, achieve:

- 91 (1) a silver-level rating in the appropriate LEED rating system, as
 92 certified by the Green Building Council;
- 93 (2) a silver-level rating in the appropriate LEED rating system, as
 94 verified by the Director or a qualified person approved by the
 95 Director; or
- 96 (3) energy and environmental design standards that the Director
 97 identifies as equivalent to a silver-level rating in the appropriate
 98 LEED rating system, as verified by the Director or a qualified
 99 person approved by the Director.

100 (b) Other covered buildings. Any other covered building must achieve:

- 101 (1) a certified-level rating in the appropriate LEED rating system,
 102 as certified by the Green Building Council;
- 103 (2) a certified-level rating in the appropriate LEED rating system,
 104 as verified by the Director or a qualified person approved by the
 105 Director; or

106 (3) energy and environmental design standards that the Director
 107 identifies as equivalent to a certified-level rating in the
 108 appropriate LEED rating system, as verified by the Director or
 109 a qualified person approved by the Director.

110 (c) [[Energy efficiency. In addition to complying with subsection (a) or
 111 (b), any covered building must achieve the ENERGY STAR rating
 112 under the national energy performance rating system.

113 (d)] Additions. However, for any building for which an application for all
 114 necessary building permits was filed before September 1, 2008, any
 115 later addition to that building must achieve the requirements of a
 116 subsection (a) or (b), whichever applies, [[and subsection (c)]] only if
 117 the addition would increase the building's:

- 118 (1) land coverage by at least 100%; and
 119 (2) gross floor area by at least 10,000 square feet.

120 **8-50. Building permits; [use-and-occupancy permit] [[use and**
 121 **occupancy certificates]].**

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

- 124 (1) design plans for the building which are likely to achieve the
 125 applicable standard under~~[[:]~~

126 ~~[[A)]~~ [Section 8-49] Section 8-49(a) or (b), whichever applies,
 127 as certified or otherwise approved by the Green Building
 128 Council or verified by the Director or a qualified person
 129 designated by the Department; [[and

130 (B) Section 8-49(c), as verified by a professional engineer;]]
 131 and

132 (2) any other document or information the Department finds
 133 necessary to decide whether the building will achieve the
 134 applicable [standard] ~~[[standards]]~~ standard under Section 8-49.

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

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

142 ~~[[d) Temporary use and occupancy certificate. If a covered building has~~
 143 ~~not achieved the applicable standards under Section 8-49 but the~~
 144 ~~Department finds that a process is in place to achieve those standards~~
 145 ~~within 18 months, the Department may issue a temporary use and~~
 146 ~~occupancy certificate which is valid for up to 18 months.]]~~

147 ~~[[e) Environmental Sustainability Fee.~~

148 (1) ~~If a temporary use and occupancy certificate expires before a~~
 149 ~~covered building complies with the applicable standards under~~
 150 ~~Section 8-49, the building owner must pay an Environmental~~
 151 ~~Sustainability Fee that is equal to the cost of bringing the~~
 152 ~~building into compliance.~~

153 (2) ~~The fees collected under paragraph (1) must be used to fund~~
 154 ~~programs that help mitigate the energy and environmental~~
 155 ~~impacts of buildings.]]~~

156 **8-51. Regulations.**

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

- 159 (a) the LEED rating system, and any equivalent energy and
 160 environmental design standard, that applies to each type of covered
 161 building under [Section 8-49] Section 8-49(a) and (b).
- 162 (b) the process to verify that a covered building complies with any
 163 applicable standard under Section 8-49, including the types of persons
 164 who are qualified to verify compliance;
- 165 (c) any standards and procedures under which the Director may approve
 166 full or partial waivers of Section 8-49 when compliance would be
 167 impractical or unduly burdensome and the public interest would be
 168 served by the waiver; [and] and
- 169 (d) [[The methodology that the Department will use to determine the
 170 amount of the Environmental Sustainability Fee that must be paid
 171 under Section 8-50(e); and
- 172 (e)] standards and procedures for any enforcement mechanism[, such as a
 173 performance bond,], such as a performance bond, that the Department
 174 finds necessary to accomplish the purposes of this Article.

175 **Sec. 3. [[Article VIII]] Section 8-53 is added to Chapter 8 as follows:**

176 **[[Article VIII. Energy Efficiency]]**

177 **[[8-53. Definitions.**

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

179 “Covered building” means a newly constructed:

180 (1) Single-family residential building; or

181 (2) Multi-family residential building which is:

182 (A) Not a covered building under Section 8-48; and

183 (B) Eligible to earn the ENERGY STAR rating.

184 “Department” means the Department of Environmental Protection.

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

186 “ENERGY STAR rating” means the ENERGY STAR rating developed by the
 187 federal Environmental Protection Agency which measures a building’s energy
 188 efficiency.

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

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

- 192 (1) Is certified by RESNET as a home energy performance rater; or
 193 (2) Meets other equivalent requirements approved by the Director.

194 “RESNET” means the Residential Energy Services Network.

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

- 198 (1) Achieves the applicable HERS index score; and
 199 (2) Is verified and field-tested by a qualified home energy
 200 performance rater.

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

- 204 (1) Complies with the applicable ENERGY STAR Builder Option
 205 Package; and
 206 (2) Is verified and field-tested by a qualified home energy
 207 performance rater.]]

208 **[[8-54. ENERGY STAR standard.**

209 A covered building must achieve the ENERGY STAR rating under the
 210 performance or prescriptive path.]]

211 **[[8-55. Building permits; use and occupancy certificates.**

- 212 (a) Design plans. An applicant for a building permit for a covered
213 building must submit to the Department:
- 214 (1) Design plans for the building that are likely to achieve the
215 standard under Section 8-54, as certified by a qualified home
216 energy performance rater; and
- 217 (2) Any other document or information the Department finds
218 necessary to decide whether the building will achieve the
219 standard under Section 8-54.
- 220 (b) Building permit. The Department must require compliance with
221 Section 8-54 as a condition of any building permit issued for a
222 covered building.
- 223 (c) Final use and occupancy certificate. The Department must not issue a
224 final use and occupancy certificate for a covered building unless it
225 finds that the building complies with Section 8-54.
- 226 (d) Temporary use and occupancy certificate. If a covered building does
227 not comply with Section 8-54 but the Department finds that a process
228 is in place to achieve compliance within 18 months, the Department
229 may issue a temporary use and occupancy certificate which is valid
230 for up to 18 months.]
- 231 (e) Environmental Sustainability Fee.
- 232 (1) If a temporary use and occupancy certificate expires before a
233 covered building complies with Section 8-54, the building
234 owner must pay an Environmental Sustainability Fee that is
235 equal to the cost of bringing the building into compliance.
- 236 (2) The fees collected under paragraph (1) must be used to fund
237 programs that help mitigate the energy and environmental
238 impacts of buildings.]]

239 **[[8-56. Regulations.**

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

- 242 (a) Any process for becoming a qualified home energy performance rater
 243 that the Director finds is equivalent to the RESNET certification
 244 process;
- 245 (b) Any standards and procedures under which the Director may approve
 246 full or partial waivers of Section 8-54 when compliance would be
 247 impractical or unduly burdensome and the waiver would serve the
 248 public interest;
- 249 (c) The methodology that the Department will use to determine the
 250 amount of the Environmental Sustainability Fee that must be paid
 251 under Section 8-55(e); and
- 252 (d) Standards and procedures for any enforcement mechanism that the
 253 Department finds necessary to accomplish the purposes of this
 254 Article.]]

255 **8-53. ASHRAE/USGBC/IESNA standards.**

- 256 (a) Definitions.
- 257 “ASHRAE/USGBC/IESNA Standard 189.1” means the standard for
 258 high-performance green buildings developed by the American Society
 259 of Heating, Refrigerating and Air-Conditioning Engineers, the U.S.
 260 Green Buildings Council, and the Illuminating Engineering Society of
 261 North America.
- 262 (b) The Sustainability Working Group must:
- 263 (1) evaluate the costs and benefits of adopting the ASHRAE/
 264 USGBC/IESNA Standard 189.1; and

265 (2) recommend to the County Executive and County Council by
 266 January 15, 2009, whether the County should adopt the
 267 ASHRAE/USGBC/IESNA Standard 189.1, particularly the
 268 energy efficiency section, or any other building performance
 269 standard.

270 **[[Sec. 3. Applicability; initial regulations.**

- 271 (a) Section 8-49(c), as added by Section 2 of this Act, applies to any
 272 covered building, other than a County building, for which a building
 273 permit application is filed on or after January 1, 2009.
- 274 (b) Section 8-49(c), as added by Section 2 of this Act, applies to any
 275 County building for which design funding is first included in the
 276 appropriate capital budget for fiscal year 2009 or any later fiscal year,
 277 or, if design funding is not directly included in the capital budget, for
 278 which a building permit application is filed on or after January 1, 2009.
- 279 (c) Section 8-54, as added by Section 3 of this Act, applies to any covered
 280 building for which a building permit application is filed on or after
 281 January 1, 2009.
- 282 (d) By March 15, 2008, the County Executive must adopt, and submit to the
 283 Council under County Code Section 2A-15, regulations required by
 284 Section 8-51, as amended by Section 2 of this Act, and Section 8-56, as
 285 added by Section 3 of this Act.]]

286 **Sec. 4. Article VIII is added to Chapter 8 as follows:**

287 **Article VIII. Energy Efficiency**

288 **8-54. Definitions.**

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

290 “Covered building” means a newly constructed:

- 291 (1) single-family residential building; or

- 292 (2) multi-family residential building which is:
293 (A) not a covered building under Section 8-48; and
294 (B) eligible to earn the ENERGY STAR rating.

295 “Department” means the Department of Permitting Services.

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

297 “ENERGY STAR rating” means the ENERGY STAR rating developed by the
298 federal Environmental Protection Agency which measures a building’s energy
299 efficiency.

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

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

- 303 (1) is certified by RESNET as a home energy performance rater; or
304 (2) meets other equivalent requirements approved by the Director.

305 “RESNET” means the Residential Energy Services Network.

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

- 309 (1) achieves the applicable HERS index score; and
310 (2) is verified and field-tested by a qualified home energy
311 performance rater.

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

- 315 (1) complies with the applicable ENERGY STAR Builder Option
316 Package; and
317 (2) is verified and field-tested by a qualified home energy
318 performance rater.

319 **8-55. ENERGY STAR standard.**

320 A covered building must achieve the ENERGY STAR rating under the
321 performance or prescriptive path.

322 **8-56. Building permits; use and occupancy certificates.**

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

325 (1) design plans for the building that are likely to achieve the
326 standard under Section 8-55, as certified by a qualified home
327 energy performance rater; and

328 (2) any other document or information the Department finds
329 necessary to decide whether the building will achieve the
330 standard under Section 8-55.

331 (b) Building permit. The Department must require compliance with
332 Section 8-55 as a condition of any building permit issued for a
333 covered building.

334 (c) Final use and occupancy certificate. The Department must not issue a
335 final use and occupancy certificate for a covered building, if a use and
336 occupancy certificate is otherwise required, unless it finds that the
337 building complies with Section 8-55.

338 **8-57. Regulations.**

339 The County Executive must adopt regulations under Method (2) to
340 administer this Article. Those regulations must specify:

341 (a) any process for becoming a qualified home energy performance rater
342 that the Director finds is equivalent to the RESNET certification
343 process;

344 (b) any standards and procedures under which the Director may approve
345 full or partial waivers of Section 8-55 when compliance would be

346 impractical or unduly burdensome and the waiver would serve the
 347 public interest; and

348 (c) standards and procedures for any enforcement mechanism that the
 349 Department finds necessary to accomplish the purposes of this Article.

350 **Sec. 5. Applicability; initial regulations.**

351 (a) (1) Except as provided in paragraph (2), Section 8-55, as added by
 352 Section [[2]] 4 of this Act, applies to any covered building for
 353 which a building permit application is filed on or after [[April 22,
 354 2009]] January 1, 2010.

355 (2) The Director of the Department of Environmental Protection may
 356 suspend the applicability of Section 8-55 until [[July 22, 2009]]
 357 April 1, 2010 if:

358 (A) the Director certifies by [[January 15, 2009]] October 1,
 359 2009, that an alternative approach would:

360 (i) achieve the same energy efficiency goals as Section
 361 8-55; and

362 (ii) be less costly to builders and buyers of covered
 363 buildings[.]; or

364 (B) the Sustainability Working Group finds that there is an
 365 insufficient number of qualified home energy performance
 366 raters doing business in the County.

367 (b) By [[January 15, 2009]] October 1, 2009, the County Executive must
 368 adopt, and submit to the Council under County Code Section 2A-15,
 369 regulations required by Section 8-57, as added by Section [[2]] 4 of this
 370 Act.

371

372 *Approved:*

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374

Michael J. Knapp

25 Apr 08

375 Michael J. Knapp, President, County Council

Date

376 *Approved:*

377

Isiah Leggett

May 5, 2008

Isiah Leggett, County Executive

Date

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

379

Linda M. Lauer

May 6, 2008

Linda M. Lauer, Clerk of the Council

Date