

CORRECTED COPY

Bill No. 17-06
Concerning: Buildings – Energy
Efficiency and Environmental Design
Revised: 11-27-06 Draft No. 10
Introduced: April 25, 2006
Enacted: November 28, 2006
Executive: November 30, 2006
Effective: March 1, 2007
Sunset Date: None
Ch. 44, Laws of Mont. Co. 2006

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President Leventhal and Councilmembers Praisner and Silverman

AN ACT to:

- (1) require certain non-residential buildings and multi-family residential buildings to achieve certain standards relating to energy efficiency and environmental design;
 - (2) require certain applicants for ~~[[preliminary subdivision plan approval, site plan approval, or]]~~ a building permit to submit certain plans relating to energy efficiency and environmental design to the Department of Permitting Services for approval;
 - (3) require the Department of Permitting Services to ~~[[approve an]]~~ make compliance with certain energy efficiency and environmental design ~~[[plan as]]~~ standards a condition of certain building and use-and-occupancy permits;
 - (4) ~~[[make certain building owners who comply with certain standards relating to energy efficiency and environmental design eligible to receive certain incentive payments;]]~~
- ~~[[(5)]]~~ define certain terms; and
~~[[(6)]]~~ (5) generally amend the law relating to the construction of buildings, development review, building permits, energy, and environmental design.

By amending

Montgomery County Code
Chapter 8, Buildings
Section 8-26

By adding

Montgomery County Code
Chapter 8, Buildings
Article VII, Energy Efficiency and Environmental Design

[[By amending
Montgomery County Code
Chapter 18A, Energy Policy
Section 18A-11]]

| | |
|------------------------------|--|
| 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 8-26 is amended as follows:**

2 **8-26. Conditions of permit.**

3 * * *

4 (c) *Compliance with permit.* All work [shall] must conform to the approved
5 application and plans for which the permit has been issued, including
6 any [Green Building Plan approved] action required under Article
7 VII, and any approved amendments [thereto] to the permit.

8 * * *

9 **Sec. 2. Chapter 8 is amended by adding Article VII, Energy**
10 **Efficiency and Environmental Design:**

11 **Article VII. Energy Efficiency and Environmental Design.**

12 **8-46. Short Title.**

13 This Article may be cited as the Montgomery County Green Buildings Law.

14 **8-47. Policy.**

15 This Article is intended to protect the public health and welfare by requiring an
16 integrated approach to planning, design, construction, and operation of a
17 covered building and its surrounding landscape that helps mitigate the energy
18 and environmental [, economic, and social] impacts of the building so that it
19 is energy efficient, sustainable, secure, safe, cost-effective, accessible,
20 functional, and productive [, and esthetically attractive].

21 **8-48. Definitions.**

22 In this Article, in addition to any term defined elsewhere in this Chapter or in
23 regulations adopted under this Chapter, the following words have the meanings
24 indicated:

25 County building means any covered building for which the County
26 government finances at least 30% of the cost of:

- 27 (1) construction, for a newly constructed building; or

(2) modification, for a building that is extensively modified.

Covered building means a newly constructed or extensively modified non-residential [[building]] or multi-family residential building that [[is]] has or will have at least 10,000 square feet [[in size]] of gross floor area.

Extensively modified refers to any structural modification which alters more than 50% of the building's gross floor area, as indicated on the application for a building permit. Extensively modified does not include any modification that is limited to one or more of the following building systems: mechanical; electrical; plumbing; heating, ventilation, and air conditioning (HVAC); and fire protection.

Green [[Buildings]] Building Council means the [[United States]] U.S. Green [[Buildings]] Building Council, an organization that has developed and published the LEED rating system to measure the energy and environmental performance of a building.

[[“Green building plan” means a:

- (1) LEED scorecard showing the LEED points that a building will obtain; and
- (2) written explanation of how the building will obtain the LEED points identified in the LEED scorecard.]]

[[“Green building concept plan” means a:

- (1) LEED scorecard showing the LEED points that a building will obtain as a result of site location and stormwater management; and
- (2) written explanation of how the building will obtain the LEED points identified in the LEED scorecard.]]

LEED refers to the series of Leadership in Energy and Environmental Design (LEED) rating systems developed by the Green Building Council.

55 [[LEED accredited professional means an individual who has passed the
 56 LEED Professional Accreditation Exam administered by the Green Buildings
 57 Council.]]

58 [[“LEED-NC Version 2.2” means the Leadership in Energy and
 59 Environmental Design (LEED) Rating System for New Construction and
 60 Major Renovation, Version 2.2, developed by the Green Buildings Council,
 61 including the LEED-NC Version 2.2 Checklist and LEED-NC Version 2.2
 62 Reference Guide.]]

63 [[“LEED rating system” means:

- 64 (1) LEED-NC Version 2.2; or
- 65 (2) if approved by the County Executive, a successor to LEED-NC
 66 Version 2.2 developed by the Green Buildings Council.]]

67 LEED rating system means the particular LEED rating system that applies to
 68 a covered building, as specified in Executive regulations.

69 [[“LEED scorecard” means the checklist developed by the Green Buildings
 70 Council for the purpose of calculating a score on the LEED rating system.]]

71 Multi-family residential building means [[a building that includes 4 or more
 72 dwelling units]] any multi-family residential or mixed-use building that is
 73 taller than 4 stories. Multi-family residential building does not include a
 74 residential care or assisted living building which can house no more than 16
 75 occupants.

76 Newly constructed refers to a new stand-alone building or an addition to an
 77 existing building. A newly constructed building includes any addition to or
 78 enlargement of an existing building, but does not include any change to an
 79 existing portion of a building.

80 Non-residential building means a building not used as a dwelling [,
 81 including:]].

- 82 [(1) office buildings, including general offices, medical offices, office
- 83 parks, research parks, townhouse offices, government offices, and
- 84 other buildings with similar uses;
- 85 (2) industrial buildings, including truck terminals, warehouses, light
- 86 or heavy manufacturing facilities, industrial parks, and other
- 87 buildings with similar uses;
- 88 (3) retail buildings, including stores, shopping centers, restaurants,
- 89 vehicles sales or service facilities, banks, theaters, post offices,
- 90 and other buildings with similar uses;
- 91 (4) places of worship;
- 92 (5) private elementary, secondary, or post-secondary schools; and
- 93 (6) hotels, motels, day care centers, nursing homes, recreational
- 94 facilities, and other buildings with similar uses.]]

95 *Non-residential building* does not include any:

- 96 (1) day care center for 5 or fewer persons;
- 97 (2) accessory building or structure;
- 98 (3) agricultural building, stable, barn, or greenhouse;
- 99 (4) parking garage that is not heated or cooled; or
- 100 (5) other building characterized as a miscellaneous building in the
- 101 edition of the ICC International Building Code designated under
- 102 Section 8-13.

103 [[“**Planning Board**” means the Montgomery County Planning Board of the

104 Maryland-National Capital Park and Planning Commission.]]

105 [[“**Preliminary subdivision plan**” means a preliminary subdivision plan

106 approved by the **Planning Board** under Chapter 50.]]

107 [[“**Site plan**” means a site plan approved by the **Planning Board** under

108 Division 59-D-3.]]

109 **8-49. [[LEED standard]] Standards and requirements.**

110 **[[a) Any covered building constructed in the County, including any**
 111 **covered building constructed by the County, must achieve 20 points on**
 112 **the LEED rating system.]]**

113 **[[b) The owner of any covered building that achieves at least 24 points on**
 114 **the LEED rating system is eligible for an incentive payment under the**
 115 **Clean Energy and Environmental Design Rewards Program established**
 116 **in Section 18A-11.]]**

117 **(a) Any County building must, in addition to any action required under**
 118 **Section 8-14A, achieve:**

119 **(1) a silver-level rating in the appropriate LEED rating system, as**
 120 **certified by the Green Building Council;**

121 **(2) a silver-level rating in the appropriate LEED rating system, as**
 122 **verified by the Director or a qualified person approved by the**
 123 **Director; or**

124 **(3) energy and environmental design standards that the Director**
 125 **identifies as equivalent to a silver-level rating in the appropriate**
 126 **LEED rating system, as verified by the Director or a qualified**
 127 **person approved by the Director.**

128 **(b) Any other covered building must achieve:**

129 **(1) a certified-level rating in the appropriate LEED rating system,**
 130 **as certified by the Green Building Council;**

131 **(2) a certified-level rating in the appropriate LEED rating system,**
 132 **as verified by the Director or a qualified person approved by the**
 133 **Director; or**

134 **(3) energy and environmental design standards that the Director**
 135 **identifies as equivalent to a certified-level rating in the**

136 appropriate LEED rating system, as verified by the Director or a
 137 qualified person approved by the Director.

138 (c) However, for any building for which an application for all necessary
 139 building permits was filed before September 1, 2008, any later addition
 140 to that building must achieve the requirements of subsection (a) or (b),
 141 whichever applies, only if the addition would increase the building's:

142 (1) land coverage by at least 100%; and

143 (2) gross floor area by at least 10,000 square feet.

144 **[[8-50. Site plans.]]**

145 **[(a) Before the Planning Board approves a site plan for a project that**
 146 **includes a covered building, an applicant must submit the following**
 147 **documents to the Department for approval:**

148 (1) **a Green Building Plan that shows how the building will comply**
 149 **with Section 8-49(a); and**

150 (2) **architectural plans for the building that are certified by a LEED**
 151 **accredited professional as likely to yield the LEED points**
 152 **specified in the Green Building Plan.]]**

153 **[(b) Before the Department issues a building permit for a covered building**
 154 **for which a site plan is not required, the owner of the building must**
 155 **submit the documents listed in paragraphs (a)(1) and (a)(2) to the**
 156 **Department for approval.]]**

157 **[[8-51. Preliminary subdivision plans.**

158 **Before the Planning Board approves a preliminary subdivision plan, an**
 159 **applicant must submit a Green Building Concept Plan to the Department for**
 160 **approval.]]**

161 **[[8-52]] 8-50. Building and use-and-occupancy permits.**

- 162 (a) The applicant for a building permit for a **covered building** must submit
 163 to the Department:
- 164 (1) design plans for the building that are likely to achieve the
 165 applicable standard under Section 8-49, as certified or otherwise
 166 approved by the Green Building Council or verified by the
 167 Director or a qualified person designated by the Department; and
- 168 (2) any other document or information the Department finds
 169 necessary to decide whether the building will achieve the
 170 applicable standard under Section 8-49.
- 171 (b) The Department must ~~approve a **Green Building Plan** that complies~~
 172 require compliance with Section 8-49 ~~[(a)]~~ as a condition of any
 173 building permit issued for a **covered building**.
- 174 (c) The Department must not issue a final certificate of use and occupancy
 175 for a **covered building** unless it finds that the building has achieved the
 176 applicable standard under Section 8-49.

177 **8-51. Regulations.**

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

- 180 (a) the **LEED rating system**, and any equivalent energy and environmental
 181 design standard, that applies to each type of **covered building** under
 182 Section 8-49;
- 183 (b) the process to verify that a **covered building** complies with any
 184 applicable standard, including the types of persons who are qualified to
 185 verify compliance;
- 186 (c) any standards and procedures under which the Director may approve
 187 full or partial waivers of Section 8-49 when compliance would be
 188 impractical or unduly burdensome and the public interest would be

189 served by the waiver; and
 190 (d) standards and procedures for any enforcement mechanism, such as a
 191 performance bond, that the Department finds necessary to accomplish
 192 the purposes of this Article.

193 **8-52. Report.**

194 The Director must submit to the Executive and Council, not later than March 1
 195 of each year, a list of each waiver of the requirements of this Article that the Director
 196 approved during the preceding calendar year and any condition attached to that
 197 waiver.

198 **[[Sec. 3. Section 18A-11 is amended as follows:**

199 **18A-11. Clean Energy and Environmental Design Rewards Program.**

200 (a) The Director of the Department of Environmental Protection must
 201 establish a Clean Energy and Environmental Design Rewards Program.
 202 The purpose of the program is to provide financial and other incentives
 203 to:

- 204 (1) consumers who choose electricity produced by renewable and
 205 environmentally preferable power sources; and
 206 (2) building owners who qualify under Section 8-49(b) for
 207 participation in the program.

208 (b) The Director must require each eligible [person] consumer, building
 209 owner, or supplier to submit an application for any payment under this
 210 program, and may take any other action necessary to administer this
 211 program. The Department of Finance must take actions necessary to
 212 make any payments that the Director of Environmental Protection has
 213 certified are due. The County Executive must issue regulations under
 214 Method (1) to implement this Section.

215 (c) The Executive must adopt program regulations that:

- 216 (1) identify the types of electricity that qualify for incentives under
 217 the program;
- 218 (2) restrict or preclude the payment of incentives for purchase of
 219 otherwise qualified electricity that a consumer or supplier is
 220 required to buy or produce to meet certain federal or state
 221 requirements;
- 222 (3) specify the process to apply for, certify, and receive an award;
 223 and
- 224 (4) include any additional program criteria, standards, and
 225 procedures that are consistent with the County's energy and
 226 environmental policy, which among other things may restrict the
 227 location or air shed where any qualified electricity is produced.
- 228 (d) The County Council must establish by resolution the maximum amount
 229 of any incentive offered and the time period during which the incentive
 230 will be offered. The maximum incentive may be calculated by total
 231 payments, payment per quantity of electricity bought, or any other
 232 reasonable measurement.
- 233 (e) Any incentive payment to individual applicants may be paid on a fiscal
 234 year or calendar year basis, or at any other convenient time.
- 235 (f) A person who submits a false or fraudulent application, or withholds
 236 material information to obtain a payment under this Section, has
 237 committed a Class A violation. In addition, the person must repay the
 238 County for all amounts improperly paid, and all accrued interest and
 239 penalties that would apply to those amounts, as if they were overdue
 240 taxes. A person who violates this Section is liable for all court costs and
 241 expenses of the County in any civil action brought by the County to
 242 recover any payments, interest, or penalty. The County may collect any

243 amount due, and otherwise enforce this Section, by any appropriate
 244 legal action.]]

245 **Sec. ~~[[4]] 3. Applicability; initial regulations.~~**

246 (a) [[This]] Article VII of Chapter 8 of the County Code, as inserted by this
 247 Act, applies to any covered building, other than a County building, for
 248 which a ~~[[preliminary subdivision plan application, site plan~~
 249 application, or]] building permit application is filed on or after [[the date
 250 the Act takes effect]] the earlier of:

251 (1) one year after the regulations submitted under subsection (c) take
 252 effect; or

253 (2) September 1, 2008.

254 (b) Article VII applies to any County building for which design funding is
 255 first included in the appropriate capital budget for fiscal year 2008 or
 256 any later fiscal year, or, if design funding is not directly included in the
 257 capital budget, for which a building permit application is filed on or
 258 after the earlier of:

259 (1) one year after the regulations submitted under subsection (c) take
 260 effect; or

261 (2) September 1, 2008.

262 However, notwithstanding Section 8-49(a), inserted by Section 1 of this
 263 Act, the Director may issue a building permit for any building for which
 264 design funding is first approved in the appropriate capital budget for
 265 fiscal year 2008 if that building achieves a certified-level rating or the
 266 equivalent, rather than a silver-level rating.

267 (c) By July 15, 2007, the County Executive must adopt, and submit to the
 268 Council under County Code Section 2A-15, regulations that specify the

269 LEED rating system or any equivalent energy and environmental
270 design standard that applies to each type of covered building.

271 *Approved:*

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11/28/06

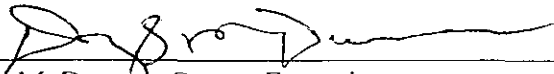
George L. Leventhal, President, County Council

Date

274 *Approved:*

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11/30/06

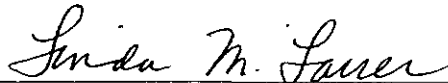
Douglas M. Duncan, County Executive

Date

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

278

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12/7/06

Linda M. Lauer, Clerk of the Council

Date

CLERK'S NOTE: To correct effective date.