

**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**

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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)]] (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

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

<b>Boldface</b>	<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:*

373

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