

**MEMORANDUM**

September 18, 2017

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst *JZ*

SUBJECT: **Action-Addendum:** Bill 19-17, Buildings – Energy Efficiency - Repeal

Section 8-48 includes the definition of “*covered building*”. The section also defines the phrase “*extensively modified*” which is used in the covered building definition. The enactment of Bill 19-17 would repeal Section 8-48. Executive Staff believes that an additional change is necessary.

Section 52-103 refers to Section 8-48 for the definition of “*covered building*”. If Bill 19-17 were enacted without amendment, there would be no definition in Section 52-103 of a covered building.

The attached amended Bill transfers the exact definitions currently in Section 8-48 to Section 52-103. The amendment attached does not involve a substantive change. The amendment will prevent a term from being undefined.

Section 52-103 concerns property tax credits for energy and environmental design. The Council may wish to determine if the definition should be changed in a future Bill.

This packet contains:  
Amended Bill 19-17

Circle #  
1

Bill No. 19-17  
Concerning: Buildings – Energy  
Efficiency and Environmental Design -  
Repeal  
Revised: 9/18/17 Draft No. 2  
Introduced: June 13, 2017  
Expires: December 13, 2018  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: December 1, 2017  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) repeal Article VII of Chapter 8 of the Montgomery County Code; and
- (2) generally amend the law relating to buildings, energy efficiency, and environmental design.

By amending

Montgomery County Code  
Chapter 8, Buildings  
Section 8-26  
Chapter 52, Taxation  
Section 52-103

and repealing

Montgomery County Code  
Chapter 8, Buildings  
Article VII  
Sections 8-46, 8-47, 8-48, 8-49, 8-50, 8-51, and 8-52

<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:*

**Sec. 1. Section 26 of Chapter 8 is amended as follows:**

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

\* \* \*

(c) *Compliance with permit.* All work must conform to the approved application and plans for which the permit has been issued[, including any action required under Article VII,] and any approved amendments to the permit.

\* \* \*

**Sec. 2. Article VII of Chapter 8 (Sections 8-46, 8-47, 8-48, 8-49, 8-50, 8-51, and 8-52) is repealed as follows:**

**ARTICLE VII. [ENERGY EFFICIENCY AND ENVIRONMENTAL DESIGN.] Reserved.**

**8-46. [Short title] Reserved.**

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

**8-47. [Policy] Reserved.**

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

**8-48. [Definitions] Reserved.**

[In this Article, in addition to any term defined elsewhere in this Chapter, the following words have the meanings indicated:

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

- (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 or multi-family residential building that has or will have at least 10,000 square feet 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 Building Council* means the U.S. Green Building Council, an organization that has developed and published the LEED rating system to measure the energy and environmental performance of a building.

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

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

*Multi-family residential building* means any multi-family residential or mixed-use building that is taller than 4 stories. Multi-family residential building does not include a residential care or assisted living building which can house no more than 16 occupants.

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

*Non-residential building* means a building not used as a dwelling. Non-residential building does not include any:

- (1) day care center for 5 or fewer persons;

- (2) accessory building or structure;
- (3) agricultural building, stable, barn, or greenhouse;
- (4) parking garage that is not heated or cooled; or
- (5) other building characterized as a miscellaneous building in the edition of the ICC International Building Code designated under Section 8-13.]

**8-49. [Standards and requirements] Reserved.**

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

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

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

- (1) a certified-level rating in the appropriate LEED rating system, as certified by the Green Building Council;
- (2) a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director; or
- (3) energy and environmental design standards that the Director identifies as equivalent to a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director.

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

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

**8-50. [Building permits] Reserved.**

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

- (1) design plans for the building that are likely to achieve the applicable standard under Section 8-49(a) or (b), whichever applies, as certified or otherwise approved by the Green Building Council or verified by the Director or a qualified person designated by the Department; and
- (2) any other document or information the Department finds necessary to decide whether the building will achieve the applicable standard under Section 8-49.

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

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

**8-51. [Regulations] Reserved.**

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

- (a) the LEED rating system, and any equivalent energy and environmental design standard, that applies to each type of covered building under Section 8-49(a) and (b).
- (b) the process to verify that a covered building complies with any applicable standard under Section 8-49, including the types of persons who are qualified to verify compliance;
- (c) any standards and procedures under which the Director may approve full or partial waivers of Section 8-49 when compliance would be impractical or unduly burdensome and the public interest would be served by the waiver; and
- (d) standards and procedures for any enforcement mechanism, such as a performance bond, that the Department finds necessary to accomplish the purposes of this Article.]

**8-52. [Report] Reserved.**

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

\* \* \*

**Sec. 3. Section 103 Of Chapter 52 is amended as follows:**

**Sec. 52-103. Property tax credit — energy and environmental design.**

- (a) Definitions. In this Section the following words have the meanings indicated:
  - (1) “*Covered building*” [[has the meaning stated in Section 8-48]]  
means a newly constructed or extensively modified non-residential or multi-family residential building that has or will have at least 10,000 square feet of gross floor area.

(2) Extensively modified means 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.

[(2)](3) "High performance building" means:

\* \* \*

[(3)](4) "LEED-CS" means the Leadership in Energy and Environmental Design - Core and Shell rating system administered by the USGBC.

[(4)](5) "LEED-EB" means the Leadership in Energy and Environmental Design - Existing Building rating system administered by the USGBC.

[(5)](6) "LEED-NC" means the Leadership in Energy and Environmental Design - New Construction rating system administered by the USGBC.

[(6)](7) "Property tax" means the general County tax and all special service area taxes.

[(7)](8) "USGBC" means the US Green Building Council.

#### **Sec. 4. Effective Date**

This Act takes effect on December 1, 2017.