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]]

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The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 8-26 is amended as follows:


* * *

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

* * *

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

Article VII. Energy Efficiency and Environmental Design.

8-46. Short Title.

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

8-47. Policy.

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 [[, economic, and social]] impacts of the building so that it is energy efficient, sustainable, secure, safe, cost-effective, accessible, functional, and productive [[, and esthetically attractive]].


In this Article, in addition to any term defined elsewhere in this Chapter or in regulations adopted under 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 [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.
[[**LEED accredited professional** means an individual who has passed the LEED Professional Accreditation Exam administered by the **Green Buildings Council**.]]


[[“**LEED rating system**” means:

(1) **LEED-NC Version 2.2**; or

(2) if approved by the County Executive, a successor to **LEED-NC Version 2.2** developed by the Green Buildings Council.]]

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

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

**Multi-family residential building** means [[a building that includes 4 or more dwelling units]] 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. [[, including:]]
office buildings, including general offices, medical offices, office
parks, research parks, townhouse offices, government offices, and
other buildings with similar uses;
(2) industrial buildings, including truck terminals, warehouses, light
or heavy manufacturing facilities, industrial parks, and other
buildings with similar uses;
(3) retail buildings, including stores, shopping centers, restaurants,
vehicles sales or service facilities, banks, theaters, post offices,
and other buildings with similar uses;
(4) places of worship;
(5) private elementary, secondary, or post-secondary schools; and
(6) hotels, motels, day care centers, nursing homes, recreational
facilities, and other buildings with similar uses.]]

**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.

[["Planning Board" means the Montgomery County Planning Board of the
Maryland-National Capital Park and Planning Commission.]]

[["Preliminary subdivision plan" means a preliminary subdivision plan
approved by the Planning Board under Chapter 50.]]

[["Site plan" means a site plan approved by the Planning Board under
Division 59-D-3.]]
8-49. [LEED standard] Standards and requirements.

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

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

(a) 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) 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) 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 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. Site plans.]]

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

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

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

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

[[8-51. Preliminary subdivision plans.]]

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

(a) 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, 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) The Department must [[approve a Green Building Plan that complies]] require compliance with Section 8-49 [[(a)]] as a condition of any building permit issued for a covered building.

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

8-51. Regulations.

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;

(b) the process to verify that a covered building complies with any applicable standard, 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.
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 that
waiver.
[[Sec. 3. Section 18A-11 is amended as follows:
(a) The Director of the Department of Environmental Protection must
establish a Clean Energy and Environmental Design Rewards Program.
The purpose of the program is to provide financial and other incentives
to:
(1) consumers who choose electricity produced by renewable and
environmentally preferable power sources; and
(2) building owners who qualify under Section 8-49(b) for
participation in the program.
(b) The Director must require each eligible [person] consumer, building
owner, or supplier to submit an application for any payment under this
program, and may take any other action necessary to administer this
program. The Department of Finance must take actions necessary to
make any payments that the Director of Environmental Protection has
certified are due. The County Executive must issue regulations under
Method (1) to implement this Section.
(c) The Executive must adopt program regulations that:
(1) identify the types of electricity that qualify for incentives under the program;

(2) restrict or preclude the payment of incentives for purchase of otherwise qualified electricity that a consumer or supplier is required to buy or produce to meet certain federal or state requirements;

(3) specify the process to apply for, certify, and receive an award; and

(4) include any additional program criteria, standards, and procedures that are consistent with the County’s energy and environmental policy, which among other things may restrict the location or air shed where any qualified electricity is produced.

(d) The County Council must establish by resolution the maximum amount of any incentive offered and the time period during which the incentive will be offered. The maximum incentive may be calculated by total payments, payment per quantity of electricity bought, or any other reasonable measurement.

(e) Any incentive payment to individual applicants may be paid on a fiscal year or calendar year basis, or at any other convenient time.

(f) A person who submits a false or fraudulent application, or withholds material information to obtain a payment under this Section, has committed a Class A violation. In addition, the person must repay the County for all amounts improperly paid, and all accrued interest and penalties that would apply to those amounts, as if they were overdue taxes. A person who violates this Section is liable for all court costs and expenses of the County in any civil action brought by the County to recover any payments, interest, or penalty. The County may collect any
amount due, and otherwise enforce this Section, by any appropriate legal action.||

Sec. [4][3. Applicability; initial regulations.]

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

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

(2) September 1, 2008.

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

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

(2) September 1, 2008.

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

(c) By July 15, 2007, the County Executive must adopt, and submit to the Council under County Code Section 2A-15, regulations that specify the
LEED rating system or any equivalent energy and environmental
design standard that applies to each type of covered building.

Approved:

George L. Leventhal, President, County Council

Date

11/28/06

Approved:

Douglas M. Duncan, County Executive

Date

11/30/06

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

12/7/06

CLERK'S NOTE: To correct effective date.