

## Building Energy Performance Standards and Rent Stabilization

### Montgomery County Building Energy Performance Standards (BEPS)

[Building Energy Performance Standards \(BEPS\)](#) set a minimum threshold for energy performance for existing buildings. These standards are based on and measured against a building’s demonstrated energy performance, as shown in its benchmarking data. [Proposed BEPS regulations](#) establish a site energy use intensity (site EUI) standard for each property type to meet by the mid-2030s. Site EUI measures energy use per square foot per year.

Building owners facing economic infeasibility or circumstances outside their control (like characteristics inherent to the building or the building’s operations or timing events in the building’s equipment lifecycles, occupancy, or financing cycles) also have the option to carry out a Building Performance Improvement Plan in lieu of meeting the site EUI standard.

### Montgomery County Rent Stabilization

The [Rent Stabilization Law and Executive Regulation](#) went into effect on July 23, 2024.

In addition to regulating rent increases, the rent stabilization law and regulation also allow landlords to petition for a limited surcharge to pay for capital improvements, to apply for a 23-year substantial renovation exemption, and to petition for a rent increase greater than the allowable annual increase if they demonstrate that they are not receiving the fair return guaranteed in the regulation.

### Covered Buildings Overlap

County BEPS covers multifamily buildings 25,000 gross square feet and greater. Approximately 350 rental properties are subject to BEPS. Rent stabilization applies to units that have been offered for rent for more than 23 years.

Of the roughly 350 rental properties covered by BEPS, approximately 60% were built before 2001, as reported by the owner via energy benchmarking. As such, **many, but not all, rental properties covered by BEPS are also subject to rent stabilization requirements.**

### Multifamily Building Energy Performance

Many apartment buildings covered by BEPS have reported energy performance data as required via annual energy benchmarking requirements. When comparing current performance to proposed BEPS standards for each building, apartment buildings vary in the level of effort and options to comply with BEPS.

*Projected BEPS compliance for apartment buildings based on the latest available energy benchmarking data.*

Already below Final Standard	Within 30% of Final Standard	>30% from Final Standard
33%	33%	33%

### *Already below Final Standard*

Roughly one-third of apartment buildings report energy performance that is already below the final site energy use intensity standard for multifamily buildings. These buildings merely need to keep benchmarking annually and maintain their high energy performance.

### *Buildings within 30% of Final Standard*

Another third of apartments report energy performance within 30% of the final standard. These buildings would likely pursue compliance via the performance route with building owners finding and implementing energy efficiency measures to meet the interim and final performance standard.

### *Buildings More Than 30% Away from Final Standard*

The final third of apartment buildings are more than 30% away from the final standard. These buildings may opt to comply via a Building Performance Improvement plan that would require building owners to undertake an energy audit and create and implement a retrofit plan of cost-effective energy improvement measures to be undertaken in the building.

Cost-effectiveness varies based on the building:

- For most apartment buildings, the retrofit plan must contain energy improvement measures that maximize energy savings within a 25-year simple payback.
- For affordable housing (multi-family buildings that include at least 50% of dwelling units whose sale or rental price do not exceed that of a moderately-priced dwelling unit under Chapter 25A, including those under government regulatory agreements and naturally occurring affordable housing), the retrofit plan must address energy improvement measures that maximize energy savings with a 10-year simple payback.

## Rent Stabilization and Building Improvements

Landlords of rent-stabilized properties have multiple options for covering the cost of capital improvements, whether related to BEPS or not.

### *Capital Improvements Petition*

Capital improvements are permanent structural alterations to rehabilitate or improve a housing accommodation and do not include ordinary maintenance and repair. A landlord may petition the Director of the Montgomery County Department of Housing and Community Affairs for a limited surcharge to cover the costs of capital improvements.

Examples of capital improvement include measures that may overlap with BEPS strategies including, but not limited to:

- Replacing a roof or elevator
- Installing new windows
- Installing new appliances
- Repairing HVAC or plumbing system

A surcharge does not take effect until after approved capital improvements are completed. For building-wide capital improvements, the surcharge is divided equally among all units, is prorated over at least 96 months, and cannot exceed 20% of the base rent. For capital improvements that

only apply to a subset of units, the surcharge is divided equally among affected units, prorated over at least 60 months, and cannot exceed 15% of the base rent.

#### *Substantial Renovation Exemption Application*

A landlord may petition for a 23-year exemption from rent stabilization for an existing rental property if they conduct substantial, permanent renovations that enhance the property's value and cost at least 40% of the assessed value of the property, exclusive of the land.

#### *Fair Return Petition*

Landlords have a right to a fair return on their rental property. If the net operating income is not maintained due to higher operating expenses, they may petition for a rent increase above the annual rent increase allowance. An approved fair return rent increase must be implemented within 12 months of the date of issuance or at the lease renewal, whichever is later. If the approved increase is more than 15%, the landlord must spread it out over consecutive years.

***For more information about Building Energy Performance Standards please contact the Department of Environmental Protection at [Energy@MontgomeryCountyMD.gov](mailto:Energy@MontgomeryCountyMD.gov) or visit <https://www.montgomerycountymd.gov/dep/energy/commercial/beps.html>.***

***For more information about Rent Stabilization please contact the Department of Housing and Community Affairs at [dhca.ors.intake@montgomerycountymd.gov](mailto:dhca.ors.intake@montgomerycountymd.gov) or visit <https://www.montgomerycountymd.gov/DHCA/Tenants/RentStabilization.html>***