

Bill No. 26-22
Concerning: Landlord-Tenant Relations –
Radon Testing and Mitigation –
Required
Revised: 10/31/2022 Draft No. 6
Introduced: September 20, 2022
Enacted: November 1, 2022
Executive: November 14, 2022
Effective: July 1, 2023
Sunset Date: None
Ch. 34, Laws of Mont. Co. 2022

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Rice
Co-Sponsor: Councilmember Katz

AN ACT to:

- (1) require radon testing in multifamily and single-family rental housing;
- (2) require disclosure and mitigation of radon hazards above a certain action level;
- (3) include lease requirements for certain rental units; and
- (4) generally amend laws regarding landlord-tenant relations in the County.

By amending

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-30

By adding

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-35E

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:

Sec. 1. Section 29-30 is amended and Section 29-35E is added, as follows:

29-30. Obligations of landlords.

(a) Each landlord must reasonably provide for the maintenance of the health, safety, and welfare of all tenants and all individuals properly on the premises of rental housing. As part of this general obligation, each landlord must:

* * *

(12) comply with Section 29-35E.

* * *

29-35E. Radon Testing

(a) Definitions. In this Section, the following terms have the meanings indicated:

Action Level means the level of radon in a building, which if, equal to or above the United States Environmental Protection Agency's (EPA) recommended action level, triggers mitigation.

Mitigation means measures designed to permanently reduce indoor radon concentrations.

Multifamily dwelling has the same meaning as in Section 29-1.

Radon has the same meaning as stated in Section 40-13C(a).

Radon test has the same meaning as in Section 40-13C(a).

Radon hazard means exposure to indoor radon concentrations at or in excess of the United States Environmental Protection Agency's recommended radon action level.

Single-family home means a single-family detached or attached residential building. A single-family home does not include a residential unit in a condominium or a cooperative housing corporation.

Tenant has the same meaning stated in Section 29-1.

(b) Applicability. This Section applies to [any] all ground-contact or basement unit(s) of a residential rental [rental housing that has a unit below the third floor of a residential building] in:

- (1) a single-family home; or
- (2) a multifamily dwelling [unit] building.

(c) Radon testing - required. A landlord of a single-family home or multifamily dwelling building must conduct a radon test before leasing a unit to a prospective tenant. Test results must be within three (3) years before the date of the lease.

(d) Lease requirements. At the time of lease signing, the landlord must provide to the tenant and certify in the lease, or an addendum to the lease, the following:

- (1) a copy of radon test results that indicates any concentration of radon is below the Environmental Protection Agency's recommended action level of 4 picocuries per liter (pCi/L);
- (2) the radon test was performed less than three (3) years before the date of the lease; and
- (3) a copy of the Environmental Protection Agency's pamphlet on radon guide for tenants or an equivalent pamphlet approved for use by the Department of Environmental Protection. The copy of the pamphlet may be an electronic link to the applicable website, or if requested by the tenant, a hard copy.

(e) Testing and notification by existing tenants. An existing tenant may conduct a radon test or hire a radon professional to test a dwelling unit covered by this Section. If the test results indicate that radon hazard is present at a level of 4 pCi/L or higher, the tenant must:

- (1) in writing; and

(2) within 14 days [[of]] after the test results, notify the landlord and provide the landlord with a copy of the test results.

(f) Mitigation of radon. A landlord who receives notice under subsection (e), must:

(1) within 14 days [[of]] after notice, initiate a follow-up radon test, in accordance with EPA-recommended standards for testing, to confirm any presence of radon hazard; and

(2) within 90 days [[of]] after confirmed results[.];

(A) mitigate[[, repair, or alter]] the premises to reduce [[the]] radon [[level to 2 pCi/L or below]] below the action level of 4 pCi/L[[.]]; and

(B) provide the tenant with a final copy of test results performed by a radon professional that indicates radon has been reduced below the action level.

(g) Cost of testing. The landlord is responsible for the cost of any follow-up, confirmation, or retesting of radon in a dwelling unit.

(h) Dispute of testing results. If there is a case of conflicting test results, where the test result provided by a tenant is at or above the action level and a test result by a landlord is below the action level, the following applies to determine the prevailing test results:

(1) testing performed in compliance with the EPA-recommended standard, by a radon professional (for hire) must supersede tests not performed by a radon professional;

(2) if both tests are performed by radon professionals, long-term testing results must supersede short-term test results; or

(3) if both tests are equally valid, as specified in subsections (1) and (2), and the dispute remains, then a mutually agreed upon third-

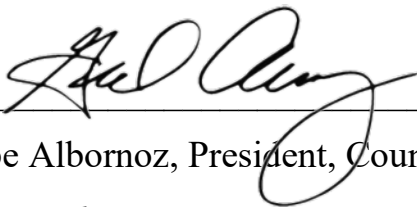
82 party radon professional must retest in accordance with EPA-
83 recommended standards.

84 ~~[(g)]~~ (i) Disclosure of radon. A landlord must disclose in writing to each
85 tenant in a residential rental building, within 14 days after a confirmed
86 radon test, any elevated radon concentrations (above EPA's
87 recommended radon action level) that are known to be present within the
88 dwelling.

89 ~~[(h)]~~ (j) Termination of lease. A tenant ~~[[may have the option]]~~ has the
90 right to terminate a lease, if the landlord fails to mitigate under subsection
91 (f), without loss of security deposit or any other financial penalty. A
92 tenant must provide, in writing, to the landlord a notice of the intent to
93 terminate and vacate the premises. The notice may be effective either
94 immediately upon receipt by the landlord, or as agreed upon by both
95 parties, to allow the tenant to find alternative housing.

96 **Sec. 2. Effective date.** The amendments in Section 1 take effect on July 1, 2023.

Approved:

	<u>11/02/2022</u>
Gabe Albornoz, President, County Council	Date

Approved:

	<u>11/14/2022</u>
Marc Elrich, County Executive	Date

This is a correct copy of Council action.

	<u>11/14/2022</u>
Judy Rupp, Clerk of the Council	Date