



**Committee:** PHED

**Committee Review:** At a future date

**Staff:** Ludeen McCartney-Green, Legislative Attorney

**Purpose:** To introduce agenda item – no vote expected

**Keywords:** #RadonTesting

AGENDA ITEM #5A

September 20, 2022

**Introduction**

## SUBJECT

Bill 26-22, Landlord-Tenant Relations - Radon Testing and Mitigation - Required

Lead Sponsor: Councilmember Rice

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Introduction

## DESCRIPTION/ISSUE

- Bill 26-22 would:
  - (1) require radon testing in 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.

## SUMMARY OF KEY DISCUSSION POINTS

- N/A

### This report contains:

Staff Report	Pages 1 - 3
Bill 26-22	© 1
Legislative Request Report	© 5
DEP Radon Handout	© 6
EPA Map of Maryland Radon Zones	© 7

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**M E M O R A N D U M**

September 15, 2022

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 26-22, Landlord-Tenant Relations – Radon Testing and Mitigation – Required

PURPOSE: Introduction – no Council votes required

Bill 26-22, Landlord-Tenant Relations – Radon Testing and Mitigation – Required sponsored by Lead Sponsor Councilmember Rice is scheduled to be introduced on September 20, 2022. A public hearing is tentatively scheduled for October 18 at 1:30 p.m.<sup>1</sup> A Planning, Housing, and Economic Development (PHED) committee worksession will be scheduled at a later date.

Bill 26-22 would:

- (1) require radon testing in 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.

**BACKGROUND**

According to the U.S. Environmental Protection Agency (EPA), radon is a radioactive gas that is found in soil and rock in all parts of the United States. It is formed by the decay of uranium, which is a natural process. Radon may be found in all types of homes and buildings in the United States. If there is radon gas in the ground, it can seep into a building. Radon typically moves up from the ground into a home through drains, cracks, or other holes in the foundation. Radon then can be trapped inside the home.

Studies show that radon is the second leading cause of lung cancer, behind cigarette smoking. The higher the radon level indoors, the greater the amount you breathe. Radon gas decays into radioactive particles that can get trapped in your lungs when you breathe. As they break down,

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<sup>1</sup> #RadonTesting

these particles release small bursts of energy. This can damage lung tissue. Inhaling indoor air containing radon over a period of many years can increase your risk of getting lung cancer. Your chance of getting lung cancer from radon depends on how much radon is in your home and how much time you spend in your home. If you are a smoker or a former smoker, the risk of getting lung cancer from radon is even greater.<sup>2</sup>

Radon is colorless, odorless, and tasteless. The only way to detect radon is by testing. Because most indoor radon comes from naturally occurring radon in the soil, high indoor levels are more likely to exist below the third floor. Therefore, the EPA recommends testing all homes below the third floor. The quickest way to test for radon is with a short-term test. Short-term tests remain in your home for 2 days to 90 days, depending on the device. Long-term tests remain in your home for more than 90 days. Testing can be done by either an individual or a professional radon company. *See*, DEP Radon Handout, © 6.

The EPA map for radon zones in Maryland designated Montgomery County as a Zone 1 area. © 7. Zone 1 means there is a predicted average radon level at or above the EPA's 4.0 pico-Curies per liter (pCi/L) action level. (pCi/L) is a measure of the amount of radioactivity in a known quantity of air.

### *State and Local Laws*

There are 37 states that require radon disclosure during real estate transactions, and 4 states require tenant disclosure by the landlord. These states include Colorado, Florida, Illinois, and Maine.<sup>3</sup>

Radon testing when buying a house in Maryland is optional, except for homes sold in Montgomery County. As of 2016, County law requires a single-family home located in the County tested for radon before completing a sale of the home. The radon test must be performed less than one year before the settlement date. The seller must either perform the test or permit the buyer to perform the test.<sup>4</sup>

State regulations require residential childcare buildings to test for radon,<sup>5</sup> Montgomery County Public Schools (MCPS), conduct testing, monitoring, and mitigation practices for all schools in the County,<sup>6</sup> County buildings conduct testing every 3 – 5 years, and any new construction<sup>7</sup> is required to construct and install proper ventilation measures to release any radon gas.

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<sup>2</sup> U.S. EPA Radon Guide for Tenants. [https://www.epa.gov/sites/default/files/2014-08/documents/tenants\\_guide.pdf](https://www.epa.gov/sites/default/files/2014-08/documents/tenants_guide.pdf)

<sup>3</sup> Id at 3.

<sup>4</sup> Bill 31-15, Sale of Real Property - Radon Test – Single Family Home, Lead Sponsor, Councilmember Rice and Katz. < <https://apps.montgomerycountymd.gov/cellims/BillDetailsPage?RecordId=981&fullTextSearch=31-15>>

<sup>5</sup> COMAR 14.31.06.07, 2015

<sup>6</sup> <https://www.montgomeryschoolsmd.org/departments/facilities/maintenance/radon-results.aspx>

<sup>7</sup> International Residential Code (Appendix F)

Bill 26-22 would seek to extend protections for tenants by requiring radon testing, education, disclosure, and mitigation in rental housing.

### **BILL SPECIFICS**

Bill 26-22 would require a landlord to conduct radon testing prior to a tenant's occupancy for any rental housing that is a single-family home or multi-dwelling unit. At the time of lease signing, the landlord is required to provide education pamphlets related to radon, testing, and mitigation as recommended by the EPA, or Department of Environmental Protection (DEP). Radon testing and educational information are required only for dwelling units located below the third floor of a building.

An existing tenant may conduct a self-test for the presence of radon, and if the results are above EPA's action level of 4 pCi/L, the tenant must notify the landlord, in writing. The landlord is required to initiate a confirmatory test within 14 days of the tenant's notice. If the confirmatory test results are above the action level, then the landlord must conduct mitigation efforts and disclose the test results to all tenants in the dwelling unit, within a certain timeframe.

A landlord who fails to timely mitigate the presence of radon may permit and trigger the option for the tenant to terminate the lease, without penalty.

This packet contains:

Bill 26-22

Legislative Request Report

DEP Radon Handout

EPA Map of Maryland Radon Zones

Circle #

1

5

6

7

Bill No. 26-22  
Concerning: Landlord-Tenant Relations –  
Radon Testing and Mitigation –  
Required  
Revised: 9/15/22 Draft No. 4  
Introduced: \_\_\_\_\_  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Rice

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**AN ACT** to:

- (1) require radon testing in 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

<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 29-30 is amended and Section 29-35E is added, as follows:**

2 **29-30. Obligations of landlords.**

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

7 \* \* \*

8 (12) comply with Section 29-35E.

9 \* \* \*

10 **29-35E. Radon Testing**

- 11 (a) Definitions. In this Section, the following terms have the meanings  
 12 indicated.

13 Mitigation means measures designed to permanently reduce indoor radon  
 14 concentrations.

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

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

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

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

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

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

- 25 (b) Applicability. This Section applies to any rental housing that has a unit  
 26 below the third floor of a residential building in:

27 (1) a single-family home; or

(2) a multifamily dwelling unit.

(c) Radon testing - required. A landlord of a single-family home or multifamily dwelling unit must conduct a radon test before leasing a unit to a prospective tenant.

(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 United States Environmental Protection Agency's (EPA) recommended action level of 4 picocuries per liter (pCi/L);

(2) the test was performed less than three (3) years before the date of the lease; and

(3) a copy of the EPA'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 in the 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 the test results, notify the landlord.

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

(1) within 14 days of notice, initiate a follow-up test to confirm any presence of radon hazard; and

(2) within 90 days of confirmed results, mitigate, repair, or alter the premises to reduce the radon level to 2 pCi/L or below.

(g) *Disclosure of Radon.* A landlord must disclose to each tenant, in writing, within 14 days after a confirmed radon test, any elevated radon concentrations (above EPA's recommended radon action level) that are known to be present within the dwelling.

(h) *Termination of Lease.* A tenant may have the option to terminate a lease agreement if the landlord fails to mitigate under subsection (f) without loss of security deposit or any other financial penalty.



## LEGISLATIVE REQUEST REPORT

*Bill 26-22*

*Landlord-Tenant Relations - Radon Testing and Mitigation– Required*

<b>DESCRIPTION:</b>	Bill 26-22 would: <ul style="list-style-type: none"><li>• require radon testing in rental housing;</li><li>• require mitigation and disclosure of radon hazards above a certain level;</li><li>• include lease requirements for certain rental units; and generally amend the laws regarding the landlord-tenant relations in the County.</li></ul>
<b>PROBLEM:</b>	Radon is a radioactive gas that is found in soil and rock in all parts of the United States. It is formed by the decay of uranium, which is a natural process. Radon may be found in all types of homes and buildings in the United States. Studies show that radon is the second leading cause of lung cancer, behind cigarette smoking. The higher the radon level indoors, the greater the amount you breathe. Montgomery County has been designed as Zone 1 area for high levels of radon.
<b>GOALS AND OBJECTIVES:</b>	Require landlords to conduct testing, provide education materials, disclose test results, and mitigate radon in rental housing. In addition, to reduce environmental hazards within rental housing and increase education and tenant awareness.
<b>COORDINATION:</b>	DEP; DHCA
<b>FISCAL IMPACT:</b>	To be provided by OMB
<b>ECONOMIC IMPACT:</b>	To be provided by OLO
<b>RESJ IMPACT:</b>	To be provided by OLO
<b>EVALUATION:</b>	To be done.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Ludeen McCartney-Green, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Municipalities can opt-in
<b>PENALTIES:</b>	Chapter 29

# RADON

## A Quick Guide to Protecting Your Home

Radon is an invisible, radio-active gas created during the naturally occurring breakdown of uranium in rocks and soils.

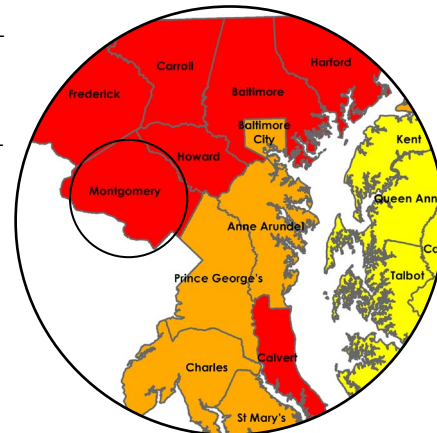
Radon gas enters homes and buildings through cracks and other openings in the foundation. It can create a serious health risk.

According to the United States Environmental Protection Agency (EPA), radon is responsible for roughly 21,000 lung cancer deaths each year. In fact, the U.S. Surgeon General has warned that radon is the second leading cause of lung cancer in the United States and is the leading cause of lung cancer in nonsmokers.

### Average Indoor Radon Levels by County

- = Above 4 pCi/L
- = 2 to 4 pCi/L
- = Below 2 pCi/L

EPA Region 3 Map



EPA studies show that Montgomery County's average indoor radon level is above the recommended safe amount of 4 pCi/L.

## Testing Your Home

**Testing your home is the only way to know if you and your family are at risk.**

To perform the test yourself, pick up a testing device from a home improvement retailer or *online*. Testing can also be done by a radon professional.

- **Short-term devices** test over a span of days. They are a quick and inexpensive way to screen for radon.
- **Long-term devices** measure levels for 3 months or more. They take day-to-day fluctuations into account and provide a better long-term average reading.

Before purchasing a device, refer to the list of recommended devices at:  
**[montgomerycountymd.gov/radon](http://montgomerycountymd.gov/radon)**

## Reducing High Radon Levels in Your Home

If your test results are 4 pCi/L or higher, the EPA recommends further action. For more information on understanding your test results, go to **[sosradon.org/results](http://sosradon.org/results)**.

If you have tested your home and confirmed that you have elevated radon levels, consult a qualified radon mitigation contractor.

## Find A Professional

These two organizations can help identify professionals in your area who are certified in radon testing and mitigation:

- **American Association of Radon Scientists and Technologists:**  
[aarst-nrpp.com](http://aarst-nrpp.com)
- **National Radon Safety Board:**  
[nrsb.org](http://nrsb.org)



**[montgomerycountymd.gov/radon](http://montgomerycountymd.gov/radon) or call 3-1-1**

Outside Montgomery County: 240-777-0311 TTY: 301-251-4850



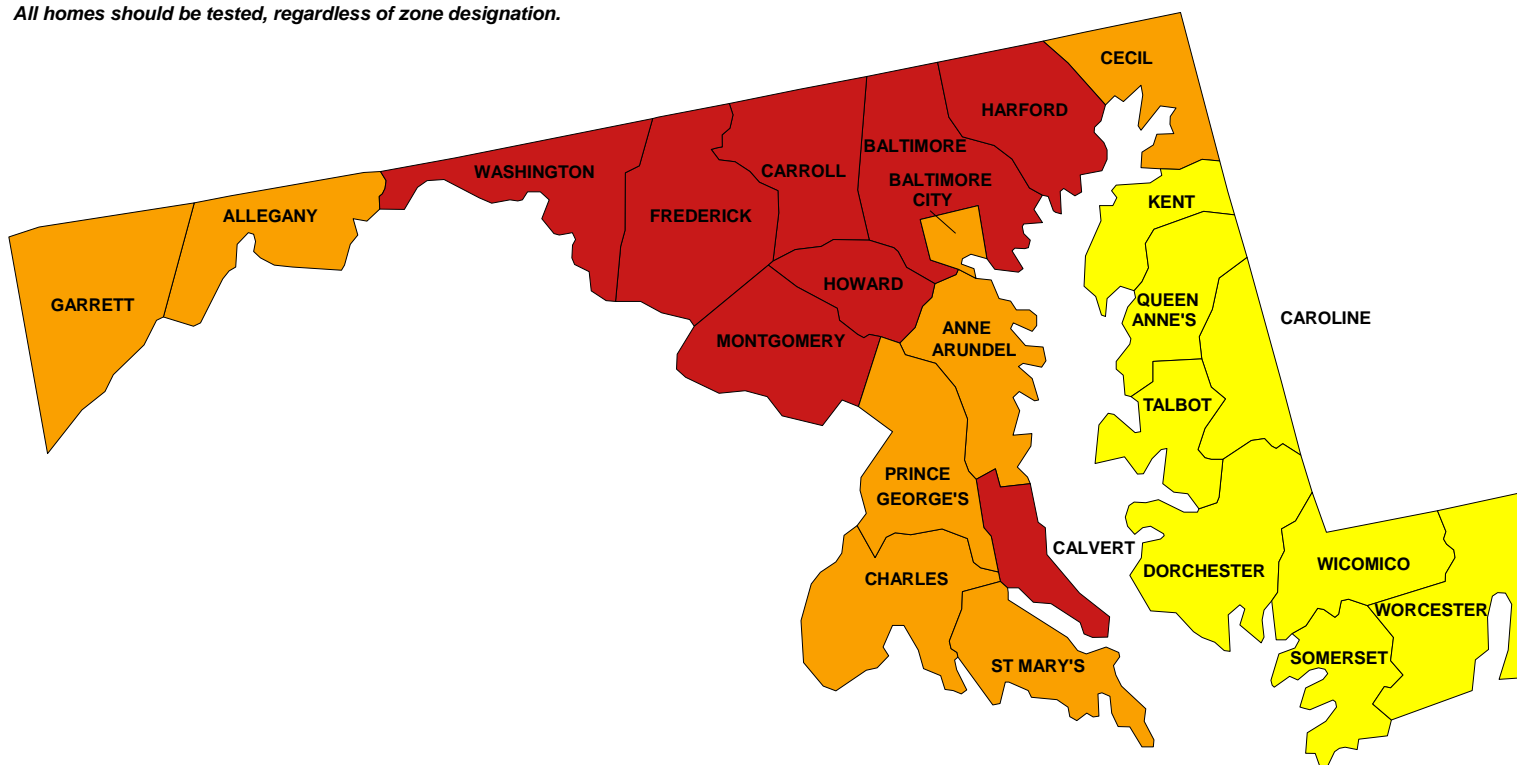
# MARYLAND - EPA Map of Radon Zones

<http://www.epa.gov/radon/zonemap.html>

The purpose of this map is to assist National, State and local organizations to target their resources and to implement radon-resistant building codes.

This map is not intended to determine if a home in a given zone should be tested for radon.

*All homes should be tested, regardless of zone designation.*



Zone 1



Zone 2



Zone 3

**IMPORTANT:** Consult the publication entitled "Preliminary Geologic Radon Potential Assessment of Maryland" (USGS Open-file Report 93-292-C) before using this map. <http://energy.cr.usgs.gov/radon/grpinfo.html> This document contains information on radon potential variations within counties. EPA also recommends that this map be supplemented with any available local data in order to further understand and predict the radon potential of a specific area.