

# Work Session

<b>Agenda Item #</b>	4
<b>Meeting Date</b>	March 16, 2016
<b>Prepared By</b>	Lyndsey Clouatre Planning Intern
<b>Approved By</b>	Suzanne R. Ludlow City Manager

<b>Discussion Item</b>	Zoning Text Amendment 16-03, Land Use – Bed and Breakfast; Bill 2-16, Transient Housing – Licensing and Registration
<b>Background</b>	<p>The Council is asked to provide comment on proposed legislation being considered by the Montgomery County Council. Sponsored by Councilmember Hans Riemer, the intent of the two bills is to allow Montgomery County homeowners to capitalize on the sharing economy and expand opportunities for short-term tenancy in the County by making the bed and breakfast licensure process less burdensome.</p> <ul style="list-style-type: none"> <li>• <u>Zoning Text Amendment 16-03, Land Use – Bed and Breakfast:</u> ZTA 16-03 would allow a bed and breakfast to operate as a limited use in all of Takoma Park’s residential and mixed-use zones. (Currently, bed and breakfasts are only permitted in the R-60 zone as a conditional use and the NR and CRT zones as a limited use.) It would also eliminate current lot size requirements, limit the number of guests at any given time, require that the bed and breakfast is the primary residence of the licensee, and increase the number of days a guest may stay in a bed and breakfast from 14 to 30.</li> <li>• <u>Bill 2-16, Transient Housing – Licensing and Registration:</u> Bill 2-16 anticipates the approval of ZTA 16-03. It eliminates references to “transient housing” in the County Code and adds an article specifically designated for bed and breakfasts. The bill also specifies a less burdensome licensure process for bed and breakfasts.</li> </ul> <p>As of February 2016, there were 77 rooms, apartments, or houses in the Takoma Park area listed on online short-term rental marketplaces such as Airbnb. Of these, only the nine rooms listed by the Eden Park Guest House, a licensed bed and breakfast, are considered to be legally operating under the County’s current law. The balance of the properties listed on these online marketplaces are located in a zone where bed and breakfasts are not a permitted use and as such are operating in violation of the Montgomery County Zoning Code. Should ZTA 16-03 be adopted, all current online marketplace listings in the city would be considered a permitted use and would become eligible for licensure under the less burdensome process.</p> <p>Montgomery County Council will hold a Public Hearing on ZTA 16-03 and Bill 2-16 on March 8, 2016 at 7:30 p.m. The County Council’s Planning, Housing &amp; Economic Development Committee will hold a hearing on ZTA 16-03 and Bill 2-16 on April 11 at 2:00 p.m.</p>

	City Council may choose to take no action or to adopt a resolution on ZTA 16-03 and/or Bill 2-16 in support of the legislation as written, on condition that specific revisions be made, or in opposition to the proposed legislation. Any action proposed by the Council has been tentatively scheduled for March 23.
<b>Policy</b>	Attract new businesses and prepare for economic development in the City and Region.  <i>- City Council Priorities, February 24, 2016</i>
<b>Fiscal Impact</b>	None at this time.
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• ZTA 16-03 Analyst Packet (Montgomery County Council)</li> <li>• Bill 2-16 Analyst Packet (Montgomery County Council)</li> <li>• Zoning Text Amendment (ZTA) No. 16-03, Land Use – Bed and Breakfast (MNCPPC)</li> </ul>
<b>Recommendation</b>	Review and give direction to staff.
<b>Special Consideration</b>	Council may submit written comments for consideration by the County Council through March 31, 2016.



**Zoning Text Amendment (ZTA) No. 16-03, Land Use – Bed and Breakfast**

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**Completed: 02/25/16**

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**Description**

Zoning Text Amendment (ZTA) No. 16-03 would amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. Currently, a Bed and Breakfast requires conditional use approval in the R-90 and R-60 zones and is not allowed in the R-40, Residential Townhouse, Residential Multi-Unit zones and the CR zone. The ZTA has the intent of expanding the opportunities for short-term tenancy in the County.

**Summary**

Staff provides the following comments on ZTA No. 16-03 to amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. These modifications generally allow the short-term rental or use of residential and mixed use property. Staff is concerned that the relaxation of the duration of tenancy requirements for a Bed and Breakfast use could impact the character of existing residential neighborhoods. Staff believes that, generally, the short term rental or use of residential property should be regulated separate from a Bed and Breakfast use, thereby maintaining the “spirit” of the current Bed and Breakfast use and definition (to be allowed only in an owner-occupied detached house), including many of the existing use standards. Staff also believes that the current requirement for conditional use approval in the smaller lot R-90 and R-60 zones should be retained. A Bed and Breakfast is categorized under the Commercial Use Group as “Lodging” and should remain as such. Other forms of short term rental should be considered “accessory” to the primary residential use of a property and therefore established under the “Accessory Residential Uses” use group of Section 59-3.1.6, Use Table. Staff also recommends that short term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per month (14 days) and per year (90 days as a recommended starting point), and be monitored and licensed by the County. Staff further recommends that the permanent resident, (the property owner or tenant who “hosts” the short term

rental of the unit) must reside in the dwelling unit at least 6 months in a calendar year. The timeframes associated with staff's comments are only stated as place holders for continued discussions. Staff's intent is to strike a balance: recognizing the demand for short term tenancy of residential property without commercializing residential neighborhoods.

Staff recommends that the Bed and Breakfast standards revert to its current provisions-Pre-ZTA 16-03. Attachment 2 depicts a draft ZTA that staff would support reflecting a new short-term tenancy provision.

### **Background/Analysis**

Under the new Zoning Code, household living is defined as the residential occupancy of a dwelling by a household on a monthly or longer basis. Currently, an owner may not rent "or loan for no charge" their dwelling for shorter time periods. A Bed and Breakfast is a separately defined use (a detached house that is owner-occupied with no more than 5 guest rooms for rent and customarily serves breakfasts to guests) with specific standards. In the opinion of the sponsor, the limitations on short-term rental forecloses the opportunity for owners to benefit from the sharing economy. The sponsor believes that the opportunities for short-term tenancy should be expanded.

ZTA No. 16-03 would allow a means for property owners to earn income through the "sharing economy". In particular, it would allow for "Airbnb" or other similar short term residential rentals. Airbnb is an internet based incarnation of a bed and breakfast. Airbnb allows the occupant of a housing unit to advertise their willingness to rent an entire residence, or room or space in the residence, *for any duration*; rentals could be as short as 1 day, but are generally for fewer than 30 days. Homeowners or tenants renting space to Airbnb users would still be required to obtain a County license allowing "transient visitors."

### **Bed and Breakfast Standards**

ZTA 16-03 would revise the standards for a Bed and Breakfast. Currently, there are minimum lot size requirements for a Bed and Breakfast (In the Agricultural, Rural Residential, and Residential zones, the minimum lot area is the greater of 9,000 square feet or the minimum lot area for a detached house building type in the zone. In these same zones, on a lot of less than 2 acres, a maximum of 3 bedrooms may be designated as guest rooms for which compensation is charged). Those limits would be eliminated under ZTA 16-03. There would be two new standards: 1) the number of people allowed would be limited to 5 unrelated people or one family of any size; and 2) the dwelling must be the primary residence of the licensee. Also, the time period a guest can remain in a Bed and Breakfast in one visit is proposed to increase from a maximum of 14 days to 30 days.

The County Code requires the licensing of all transient housing. ZTA 16-03 is being introduced in conjunction with Bill 2-16. Bill 2-16 would update the licensing requirements for all transient housing, including a Bed and Breakfast.

Currently, a Bed and Breakfast is allowed in the AR, R, RC, RNC, RE-2, RE-2C, RE-I, R-200, CRN, CRT, GR, and NR zones as a limited use. It is also currently allowed as a conditional use in the R-90 and R-60 zones. In addition to the zones where it is currently allowed as a limited use, ZTA 16-03 would also allow it as a limited use in the R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20, R-10, CR, RT-6.0, RT-8.0, RT-10.0, RT-12.5, RT-15.0, R-H, PD, T-S, PNZ, and PCC zones.

#### ZTA No. 16-03 Provisions and Staff Comments

ZTA No. 16-03 proposes to amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. These modifications generally allow the short-term residential rental of residential and mixed use property. Staff is concerned that the relaxation of the duration of tenancy requirements for a Bed and Breakfast use could impact the character of existing residential neighborhoods.

Staff believes that, generally, the short term rental of residential property should be regulated separate from the current Bed and Breakfast use, thereby maintaining the “spirit” of the current Bed and Breakfast definition (to be allowed only in an owner-occupied detached house), and a number of the existing use standards (for example, minimum lot area, the number of guest rooms per a specific lot area). Staff also believes that the current requirement for conditional use approval in the smaller lot R-90 and R-60 zones should remain. A Bed and Breakfast is categorized under the Commercial Use Group as “Lodging” and should remain as such. Other forms of short term rental should be considered “accessory” to the primary residential use of a property and therefore established under the “Accessory Residential Uses” use group of Section 59-3.1.6, Use Table (establish the name- “Short-Term Residential Tenancy”, and define). Staff also recommends that short term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per month (14 days) and per year (90 days as a recommended starting point), and be monitored and licensed by the County. Staff further recommends that the permanent resident, (the property owner or tenant who “hosts” the short term rental of the unit) must reside in the dwelling unit at least 6 months in a calendar year. The timeframes associated with staff’s comments are only stated as place holders for continued discussions. The intent is to strike a balance: recognizing the demand for short term tenancy of residential property without commercializing residential neighborhoods. (In San Francisco, for example, a property owner or tenant, can rent out their house or apartment for periods of fewer than 30 days for a maximum of 90 days a year; if the primary resident remains on-site, there is no limitation). Staff’s research has shown short term rental limits ranging from 17 rental periods a year (with no more than one rental within a seven day period) up to 95 days a year (See Attachments 3 & 4 for additional short-term tenancy requirements in various jurisdictions).

### Short-term tenancy vs. Bed and Breakfast Lodging

In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other lodging uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they differ in their requirement for presence of the owner/operator on-site. *ZTA 16-03 would eliminate the requirement for owner occupancy for a Bed and Breakfast use but replaces it with a standard that requires the dwelling unit to be the primary residence of the bed and breakfast licensee.*

Bed and Breakfast means a detached house that is owner-occupied with no more than 5 guest rooms for rent and customarily serves breakfasts to guests. It is further categorized under the Lodging use group which means *a building used for the short-term overnight accommodation of paying guests*. Bed and Breakfast is a limited use in most Residential Detached, Rural Residential and Agricultural Reserve zones and requires a conditional use permit in the smaller lot R-60 and R-90 zones. Use standards are in place to address a number of potential issues including but not limited to compatibility with neighboring properties, number of guest nights allowed per visit, parking, number of guest rooms per a specific lot area, and under the conditional use standards, adverse impact limitations. Staff is concerned that eliminating the conditional use requirement for a Bed and Breakfast in the smaller lot R-90 and R-60 zones could impact the case-by-case mitigation measures of the Hearing Examiner to address potential neighborhood character impacts for a use that is commercial in nature. As stated in the section above, staff believes that short-term rental or use of residential property should be regulated separate from the bed and breakfast use. Regulations for short term tenancy should include the establishment of standards minimizing potential impacts to residential neighborhoods by limiting the number of short term (under 30 days) rental days permitted per year and per month.

### Conclusion

Widespread conversion of residential housing to short-term rentals, when taken to extremes, could result in the loss of housing for permanent residents. But, with the rise of the sharing economy, and the economic and social benefits to residents of sharing resources, short-term rental activity continues to grow. This has led the Council to work toward strengthening short-term rental laws, and prompted an examination of parameters to regulate short-term rentals and established a pathway to legalize this activity. ZTA 16-03 attempts to accomplish these goals by modifying the definition of Bed and Breakfast to encompass all types of short-term tenancy. However, staff believes that a clearer method of accomplishing this goal is to address the use as accessory to the Residential use category (as a new defined use - "Short-Term Tenancy") thereby maintaining the integrity of the Bed and Breakfast use standards and definition. Staff recommends that the Bed and Breakfast standards revert to its current provisions. Attachment 2 depicts a draft of a ZTA that staff would support reflecting a new short-term tenancy provision.

## **Attachments**

1. ZTA No. 16-03 as introduced
2. Potential language to be included in ZTA No. 16-03 or a separate ZTA
3. Short-Term Tenancy Summary Matrix
4. Short Term Residential Rentals in Other Jurisdictions

# ATTACHMENT 1

Zoning Text Amendment No.: 16-03

Concerning: Land Use – Bed and  
Breakfast

Draft No. & Date: 1 – 01/06/16

Introduced: February 2, 2016

Public Hearing:

Adopted:

Effective:

Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Riemer

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- allow a Bed and Breakfast as a limited use in all Residential and all Commercial/Residential zones;
- revise the definition and requirements for a Bed and Breakfast;
- delete the requirements for a Bed and Breakfast as a conditional use; and
- generally amend the provisions for a Bed and Breakfast

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-3.1.	“Use Table”
Section 59-3.1.6.	“Use Table”
DIVISION 59-3.5.	“Commercial Uses”
Section 59-3.5.6.	“Lodging”
DIVISION 8.2.	“Residential Floating Zone”
Section 8.2.3.	“Use Table for the RT and R-H zones
DIVISION 8.3.	“Planned Unit Development Zones”
Section 8.3.2.	“PD Zone”

**EXPLANATION:** **Boldface** indicates a Heading or a defined term.  
Underlining indicates text that is added to existing law by the original text amendment.  
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.  
Double underlining indicates text that is added to the text amendment by amendment.  
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.  
\* \* \* indicates existing law unaffected by the text amendment.

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*



15           **1.     Defined**

16           Bed and Breakfast means [a detached house that is owner-occupied  
17           with no more than 5 guest rooms for rent and customarily serves  
18           breakfasts to guests.] a dwelling unit that is available for lodging. A  
19           Bed and Breakfast includes a dwelling unit that makes available the  
20           entire dwelling unit or any portion of the unit for rental periods. Meals  
21           may be provided to overnight guests when the provider satisfies the  
22           requirements of Chapter 15.

23           **2.     Use Standards**

- 24           a.     Where a Bed and Breakfast is allowed as a limited use, it must  
25           satisfy the following standards:
- 26           i.     A Bed and Breakfast is prohibited in a dwelling unit [that  
27           also provides guest rooms for roomers, or] in a Farm  
28           Tenant Dwelling, or on a site that includes an Accessory  
29           Apartment.
  - 30           ii.    [The display of a sign must include the official house  
31           number.]
  - 32           [iii.   Breakfast is the only meal that may be served and only  
33           to] The overnight guests on any night must satisfy the  
34           definition of one household.
  - 35           [iv]iii. A guest must only remain in a Bed and Breakfast for a  
36           maximum of [14] 30 days in any one visit.
  - 37           [v]iv. A record of all overnight visitors must be maintained.
  - 38           [vi]v. The Bed and Breakfast must be [registered with DPS]  
39           licensed under Chapter 54.
  - 40           [vii. In the Agricultural, Rural Residential, and Residential  
41           zones, the minimum lot area is the greater of 9,000

42 square feet or the minimum lot area for a detached house  
43 building type in the zone.]

44 [viii. In the Agricultural, Rural Residential, and Residential  
45 zones, on a lot of less than 2 acres, a maximum of 3  
46 bedrooms may be designated as guest rooms for which  
47 compensation is charged.]

48 vi. The dwelling unit must be the primary residence of the  
49 bed and breakfast licensee.

50 [ix]vii. In the Agricultural and Rural Residential zones, a  
51 Bed and Breakfast may be allowed in an accessory  
52 building designated as historic on the Master Plan for  
53 Historic Preservation.

54 [x]viii. [Parking must be located behind the front building  
55 line] On-site parking that satisfies the property's zoning  
56 is required.

57 [xi]ix. In the AR zone, this use may be prohibited if not  
58 accessory to Farming under Section 3.1.5, Transferable  
59 Development Rights.

60 [b. Where a Bed and Breakfast is allowed as a conditional use, it  
61 may be permitted by the Hearing Examiner under all limited  
62 use standards, Section 7.3.1, Conditional Use, and the following  
63 standards:

64 i. The Hearing Examiner may deny a petition for a Bed and  
65 Breakfast with frontage on and access to a road built to  
66 less than primary residential standards if it finds that road  
67 access will be unsafe and inadequate for the anticipated

- 68 traffic to be generated or the level of traffic would have  
 69 an adverse impact on neighboring residences.
- 70 ii. If there is inadequate space for parking behind the front  
 71 building line, the Hearing Examiner may approve an  
 72 alternative placement for parking.
- 73 iii. Screening under Division 6.5 is not required.
- 74 iv. To avoid an adverse neighborhood impact and assure that  
 75 the residential use remains predominant, the Hearing  
 76 Examiner may limit the number of transient visitors who  
 77 may be accommodated at one time or the number of  
 78 visits in any 30-day period.]

79 **Sec. 3. DIVISION 59-8.2 is amended as follows:**

80 **Division 8.2. Residential Floating Zones**

81 \* \* \*

82 **Section 8.2.3. Use Table for the RT and R-H zones**

- 83 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- 84 B. The following Use Table identifies uses allowed in each zone. Uses may be  
 85 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
* * *							
<b>COMMERCIAL</b>							
* * *							
Eating and Drinking	3.5.3						
Restaurant	3.5.3.B						C <sup>7</sup>
<u>Lodging</u>	<u>3.5.6</u>						
<u>Bed and Breakfast</u>	<u>3.5.6.B</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Office and Professional	3.5.8						
* * *							

86           **Sec. 4. DIVISION 59-8.3 is amended as follows:**

87   **Division 8.3. Planned Unit Development Zones**

88   \*   \*   \*

89   **Section 8.3.2. PD Zone**

90   \*   \*   \*

91   **B.    Uses**

92   \*   \*   \*

93           **2.    Commercial Uses**

94   \*   \*   \*

95                   d.    A Bed and Breakfast is allowed as a limited use under Section  
96                                   3.5.6.B.

97   \*   \*   \*

98           **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the  
99   date of Council adoption.

100

101   This is a correct copy of Council action.

102

103   \_\_\_\_\_

104   Linda M. Lauer, Clerk of the Council

## ATTACHMENT 2

Zoning Text Amendment No.: 16-XX  
Concerning: Accessory Residential  
Uses – Tenancy Duration  
Draft No. & Date: 1 – 2/25/16  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By:

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- define “short-term tenancy”;
- establish limited use standards for short-term tenancy; and
- to generally allow the short-term rental or use of residential property

By amending the following sections of the Montgomery County Zoning Ordinance,  
Chapter 59 of the Montgomery County Code:

DIVISION 59.1.4	“Defined Terms”
Section 59.1.4.2	“Specific Terms and Phrases Defined”
Division 59.3.1.	“Use Table”
DIVISION 59.3.3	“Residential Uses
Section 59.3.3.3	“Accessory Residential Uses”
DIVISION 59.8.2	“Residential Floating Zones”
DIVISION 59.8.3.	Planned Unit Development Zones

**EXPLANATION:** **Boldface** indicates a Heading or a defined term.  
Underlining indicates text that is added to existing law by the original text amendment.  
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.  
Double underlining indicates text that is added to the text amendment by amendment.  
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.  
\* \* \* indicates existing law unaffected by the text amendment.

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*



17 \* \* \*

18 **Sec. 3. DIVISION 59.3.3 is amended as follows:**

19 DIVISION 59.3.3. Residential Uses

20 \* \* \*

21 **Section 59-3.3.3. Accessory Residential Uses**

22 \* \* \*

23 **I. Short-Term Tenancy**

24 **1. Defined**

25 Short-Term Tenancy means the residential occupancy of a dwelling unit by a  
26 household for less than a month. Short-Term Tenancy is not a Bed and  
27 Breakfast.

28 **2. Use Standards**

29 Where Short-Term Tenancy is allowed as a limited use, it must satisfy the  
30 following standards:

- 31 a. Short-Term Tenancy is prohibited in a dwelling unit in a Farm
- 32 Tenant Dwelling or on a site that includes an Accessory
- 33 Apartment.
- 34 b. The property owner or tenant must reside in the dwelling unit a
- 35 minimum of 6 months in a calendar year.
- 36 c. The property can only be used for Short-Term Tenancy a
- 37 maximum of 14 days in a month and 90 days in a calendar year.
- 38 d. The use must be licensed under Chapter 54.
- 39 e. A record of all overnight visitors must be maintained.

40

41 **Sec. 4. DIVISION 59-8.2 is amended as follows:**

42 **Division 8.2. Residential Floating Zones**

43 \* \* \*

44 **Section 8.2.3. Use Table for the RT and R-H zones**

45 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.

46 B. The following Use Table identifies uses allowed in each zone. Uses may be  
 47 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
* * *							
<b>Accessory Residential Uses</b>	<u>3.3.3</u>						
* * *							
<u>Short-Term Tenancy</u>	<u>3.3.3.I</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
* * *							

48 **Sec. 5. DIVISION 59-8.3 is amended as follows:**

49 **Division 8.3. Planned Unit Development Zones**

50 \* \* \*

51 **Section 8.3.2. PD Zone**

52 \* \* \*

53 **B. Uses**

54 \* \* \*

55 **1. Residential Uses**

56 \* \* \*

57 **c. Short-Term Tenancy is allowed as a limited use under Section**  
 58 **3.3.3.I.**

59 \* \* \*

60

61

62 **Sec. 6. Effective date.** This ordinance becomes effective 20 days after the  
 63 date of Council adoption.

64

65 This is a correct copy of Council action.

66

67 \_\_\_\_\_

68 Linda M. Lauer, Clerk of the Council

### ATTACHMENT 3

Jurisdiction	Name of Use	Owner or Tenant Occupancy Requirement	Limitation on # of days per years the unit can be rented	Liability Insurance Required	Limitation on # of bedrooms rented or # occupants allowed	Geographic/ Spacing Limitations
San Francisco	Short-Term Residential Rental	Yes	Unlimited if resident is present; 90 nights if resident <i>not</i> present	Yes, or must be provided by hosting platform		
Jersey City	Short Term Rental	No	No (but a license is required if 1 person offers 5+ units)	No		
Portland	Accessory Short Term Rental	Yes	<ul style="list-style-type: none"> <li>• Up to 2 bedrooms: unlimited if resident is present and 95 days if resident is <i>not</i> present</li> <li>• 3-5 bedrooms: conditional use review required</li> </ul>	No	5 bedrooms; # of occupants may not exceed number allowed for household	The number of dwelling units in a multi-dwelling structure or a triplex that can have an accessory short-term rental is limited to 1 unit or 25 percent of the total number of units in the structure, whichever is greater
Nashville	Short Term Rental Property	No	No	Yes	2x the number of bedrooms + 4	3% cap on percentage of non-owner occupied single and two family rentals in each census tract
DC	Home Occupation/ Bed and Breakfast?	Yes, unless property owner gets a use variance & general business license	No?		2 renters, although 3 or more renters may be allowed with approval from Board of Zoning Adjustment and a general business license	
New York	?	Yes	No limitation, but owner must be present			
Philadelphia	Limited Lodging	No?	180		Up to 3 persons (including owner & renters) unrelated by blood, marriage, etc	

## Short Term Residential Rentals in Other Jurisdictions

The laws governing short term residential rentals in the 6 jurisdictions described in this document are varied, but some common elements that are regulated in several jurisdictions include:

- A resident occupancy requirement & occupancy requirement during the rental period
- A limitation on the number of days per year the unit can be rented
- A liability insurance requirement
- A limitation on the number of bedrooms rented or the number of occupants allowed or the number of simultaneous rentals to more than one party under separate contracts
- A geographic or spacing requirement
- A noticing requirement to neighbors

### San Francisco

San Francisco defines the use *Short-Term Residential Rental* as:

*A Tourist or Transient Use where all of the following conditions are met:*

- (a) The Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit;*
- (b) The Permanent Resident is a natural person;*
- (c) The Permanent Resident has registered the Residential Unit and maintains good standing on the Department’s Short-Term Residential Rental Registry; and*
- (d) The Residential Unit is not subject to the Inclusionary Affordable Housing Program.... Or any other applicable law or regulation prohibits the permanent resident from subleasing, renting or otherwise allowing Short-Term Residential Rental of the Residential Unit.*

The use is subject to the following:

- A resident can rent out a portion of their unit while they are present for an unlimited number of nights per year and they can rent out their entire unit (or a portion) while they are *not* present for a maximum of 90 nights per year (the wording of the law requires that the resident occupy the dwelling for a minimum number of days during each calendar year).
- Permanent resident maintains liability insurance appropriate to cover the Short-Term Residential Rental use in the aggregate of not less than \$500,000 or conducts each Short-Term Residential Rental transaction through a Hosting Platform that provides equal or greater coverage.
- Residential Unit must be registered on the Short-Term Residential Registry
- Permanent Resident includes the Department-issued registration number on any Hosting Platform listing or other listing offering the Residential Unit for use as a Short-Term Residential Rental

- For units subject to rent control provisions, the Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent than the rent the Resident is paying to any landlord per month

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances14/o0218-14.pdf>

### Jersey City

Jersey City defines the use *Short Term Rental* as:

*The accessory use of a Dwelling Unit for occupancy by someone other than the unit's owner or permanent resident for a period of less than 30 consecutive days.*

Short Term Rentals are permitted as an accessory use to a permitted principal residential use in all zoning districts and redevelopment plan areas where residential uses are permitted provided:

- The person offering a Dwelling Unit for Short-Term Rental use must be the owner or lessee of the residence in which the Short-Term Rental activity occurs.
- If one person offers more than 5 separate dwelling units for short-term rental use in the city, a license is required.
- No signage identifying the Short-Term Rental use is allowed.
- The use be conducted in a manner that does not materially disrupt the residential character of the neighborhood.
- No equipment or process shall be used in the Short-Term rental which creates glare, fumes, odors, or other nuisance factors detectable to the human senses outside the lot on which the Short-Term Rental is conducted.

[http://www.cityofjerseycity.com/uploadedFiles/Public\\_Notices/Agenda/City\\_Council\\_Agenda/2015/2015\\_Ordinance\\_2nd\\_Reading/Agenda%20Document\(19\).pdf](http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2015/2015_Ordinance_2nd_Reading/Agenda%20Document(19).pdf)

### Portland

Portland defines the use *accessory short term rental* as “where an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for fewer than 30 consecutive days.”

Rentals of 6 or more guestrooms at one time are not considered accessory short-term rentals. The regulations allow accessory short term rentals in houses, attached houses, duplexes, manufactured homes on its own lot, and accessory dwelling units. Bedrooms in legal detached accessory structures can also be rented to overnight guests and count towards the maximum size limit. All residents with accessory residential units must register as a business.

There are two types of accessory short term rentals, each with a specific permitting process:

1. Type “A” Accessory Short-Term Rental is one where the resident rents no more than 2 bedrooms to overnight guests. Property owners are required to provide written permission for the tenant to apply for the required permit. The use must be accessory to a *Household Living* use.
  - Permit required, includes safety inspection and neighborhood notification.
  - The resident of the short-term rental must reside in the dwelling unit where the bedrooms are rented at least 9 months of each year. There are no limitations to the number of nights the bedrooms may be used as short-term rentals. However, there is a maximum of 95 days (3 months) per year when the resident does not need to be present with the overnight guests.
  - A Type B home occupation (a home business), which allows either one nonresident employee or up to eight customers per day, is prohibited with a Type A accessory short-term rental. Type A home occupations, where no employees or customers come to the site, are allowed.
  - In a Multi-Dwelling Structure
    - Residents must self-certify that 1) each bedroom being rented has a smoke detector that is interconnected with a smoke detector in an adjacent hallway, and 2) each bedroom is located on a floor equipped with a functioning carbon monoxide alarm if the dwelling unit has a carbon monoxide source.
    - The number of dwelling units in each multi-dwelling structure or a triplex that can have an accessory short-term rental is limited to 1 unit, or 25 percent of the total number of units in the structure, whichever is greater.
2. Type “B” Accessory Short-Term Rental is one where the resident rents between 3 and 5 bedrooms to overnight guests. A Land Use Conditional Use Review application is required along with a site inspection or self-certification for the same safety features as the Type A rental.

<https://www.portlandoregon.gov/bds/article/518139>

<https://www.portlandoregon.gov/bps/article/501886>

### Nashville

Nashville defines the use *Short Term Rental Property* (STRP) as a residential dwelling unit, containing not more than four sleeping rooms, that is used and / or advertised for transient occupancy. Owners of Short-Term Rental Properties (STRPs), are required to obtain an operating permit. This law applies to all properties (including rooms and guest houses) rented for less than 30 consecutive days to the same occupant.

There are 3 types of STRPs:

1. Type 1: Owner-Occupied (single-family, multifamily or duplex)
  - Are owner-occupied or associated with an owner-occupied principal residence on the same lot.

## ATTACHMENT 4

- Include the rental of an entire dwelling unit to a single party of individuals, or If only part of the unit, include at a minimum a sleeping room (with bathroom), is limited to a single party of individuals, and the owner is generally present during the rental
2. Type 2: Not Owner-Occupied (single-family or duplex)
    - The law places a 3% cap on the percentage of non-owner occupied single and two family STRPs allowed to legally operate in each census tract of the county.
  3. Type 3: Not Owner-Occupied Multifamily (Multifamily apartments and condominiums)
    - Are not owner-occupied or associated with an owner-occupied principal residence
    - Include rental to a single party of individuals

### Requirements for all STRPs:

- Proof of insurance of not less than 1 million dollars per occurrence.
- Name, phone number, and email of person or business that will be the responsible party residing within a 25-mile radius.
- Proof of notification to owner of any property that shares a common wall or driveway with the proposed STRP.
- Signs, advertising, or any other display on the property indicating that the dwelling unit is being utilized, in whole or in part, as a STRP is prohibited.
- All STRP occupants shall abide by all applicable noise restrictions contained in the Metropolitan Code and all applicable waste management provisions of Chapter 10.20 of the Metropolitan Code.
- The STRP shall have smoke alarms in all locations required by the Fire Marshall.
- No recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use.
- No food shall be prepared for or served to the transient by the permit holder.
- The principal renter of a STRP unit shall be at least twenty-one (21) years of age.
- The maximum number of occupants permitted on a STRP property at any one time shall not exceed more than twice the number of sleeping rooms plus four.
- Simultaneous rental to more than one party under separate contracts shall not be allowed.
- The STRP owner shall not receive any compensation or remuneration to permit occupancy of a STRP for a period of less than twenty-four (24) hours.

## ATTACHMENT 4

- The permit holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.
- A STRP permit shall not be transferred or assigned to another individual, person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to operate a STRP on the property.
- Upon the filing of three or more complaints within a calendar year regarding a STRP permit, the department of codes administration shall notify the permit holder in writing of such complaints. If the department of codes administration determines that violations of this section or any other ordinance or law relating to STRPs have occurred, the permit to operate a STRP may be revoked. Once a STRP permit has been revoked, no new permit shall be issued to the applicant for the same property for a period of one year.

<http://www.nashville.gov/Codes-Administration/Construction-and-Permits/Short-Term-Rentals.aspx>

### DC

The law in DC is not very clear, but I found the chart below (supplied by a DC Department of Consumer and Regulatory Affairs representative) in an article about the subject.

Do you live in the place you're renting on Airbnb?	How many people stay at a time?	How long are you renting your place for?	Here's what you need to be legal
Yes	1-2	29 days or fewer	A Home Occupation Permit [HOP] for a Bed and Breakfast, and a B&B business license
Yes	3 or more	29 days or fewer	Approval from the Board of Zoning Adjustment and a general business license
No	1 or more	29 days or fewer	Not allowed under zoning without a use variance; property owner would need to get general business license

Chart is not comprehensive.

[http://dc.urbanturf.com/articles/blog/the\\_growing\\_airbnb\\_economy\\_and\\_what\\_it\\_might\\_mean\\_for\\_dc/8069](http://dc.urbanturf.com/articles/blog/the_growing_airbnb_economy_and_what_it_might_mean_for_dc/8069)

### New York City

New York State Multiple Dwelling Law prohibits un-hosted rentals of less than 30 days in any "Class A" building (a building occupied by 3 or more families living independently). The law does allow hosted

rentals (the owner must be present) for less than 30 days in “Class A” buildings provided that the guest has access to all parts of the apartment.

Short-term rentals in other buildings are typically prohibited unless the building’s certificate of occupancy expressly authorizes that short-term rentals are allowed

<http://www.nolo.com/legal-encyclopedia/overview-airbnb-law-new-york-city.html>

## **Philadelphia**

Philadelphia allows a use called *Limited Lodging*. A fact sheet defines it as “the short term rental of your home, or a room within your home. These short term rentals may not exceed 30 consecutive days for any visitor. Your home or a room can be rented for up to 180 days throughout a calendar year, but you will need to meet certain requirements and limitations to utilize your home for Limited Lodging.”

Rentals of 90 days or less do not require a permit. The use is subject to the following:

1. Smoke alarms shall be installed throughout the home in the following locations:
  - a. In each bedroom.
  - b. In the hall area in the immediate vicinity of the bedrooms.
  - c. On each floor of the home, including basements.
2. Carbon monoxide alarms shall be installed in the home in the following manner:
  - a. Carbon monoxide alarms shall be installed within 15’ of the entrance to every bedroom or within 15’  
of a bed in sleeping areas where there is no enclosed bedroom.
  - b. Alarms shall be centrally located on a wall or the ceiling, but not directly in front of a door to a  
bathroom or within 5’ of a cooking appliance.
  - c. If the alarm is a combination smoke and carbon monoxide alarm, it shall be located in  
accordance  
with the installation requirements for smoke alarms.
3. Signs for lodging are prohibited on your home.
4. The home may not be occupied by more than three (3) persons (including the owner and renters) who are unrelated by blood, marriage, adoption, or foster-child status, or are not Life Partners.

## ATTACHMENT 4

5. Short term rentals may not result in physical changes to your home so that it no longer looks like a home, such as constructing a separate building entrance for the sole use of the renters.

The following information must be supplied to the renters:

1. Renters are allowed to have guests only between the hours of 8:00am and 12:00am.
2. Renters shall be notified of the trash and recycle collection days for your home and any applicable rules and regulations pertaining to leaving or storing trash on the exterior of your home. Proper containers shall be provided for the renters.
3. Renters shall be notified that excessive noise is prohibited and such violators shall be subject to fines and penalties.
4. The owner or their designee shall provide contact information to the renters in case of complaints regarding the condition, operation, or conduct of the occupants of the home. The contact person must have the responsibility to take action to resolve such complaints.

<http://www.phila.gov/li/PDF/Limited%20Lodging%20Information%20Flyer.pdf>

**Introduction**

**MEMORANDUM**

January 29, 2016

TO: County Council

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

SUBJECT: Introduction – Zoning Text Amendment 16-03, Land Use – Bed and Breakfast

Zoning Text Amendment (ZTA) 16-03, scheduled for introduction on February 2, 2016, would amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. Councilmember Riemer is the lead sponsor of the ZTA 16-03. A public hearing will be scheduled for March 8, 2016 at 1:30 p.m.

Under the new Zoning Code, household living is defined as the residential occupancy of a dwelling by a household on a monthly or longer basis. Currently, an owner may not rent “or loan for no charge” their dwelling for shorter time periods. A Bed and Breakfast is a separately defined use with different standards. In the opinion of the sponsor, the limitations on short-term rental forecloses the opportunity for owners to benefit from the sharing economy. The sponsor believes that the opportunities for short-term tenancy should be expanded.

ZTA 16-03 would revise the standards for a Bed and Breakfast. Currently, there are minimum lot size requirements for a Bed and Breakfast. Those limits would be eliminated. There would be two new standards: 1) the number of people allowed would be limited to 5 unrelated people or one family of any size; and 2) the dwelling must be the primary residence of the licensee. The County Code requires the licensing of all transient housing. ZTA 16-03 is being introduced in conjunction with Bill 2-16. The Bill would update the licensing requirements for all transient housing, including a Bed and Breakfast. The Bill is also scheduled for introduction on February 2, 2016.

Currently, a Bed and Breakfast is allowed in the AR, R, RC, RNC, RE-2, RE-2C, RE-1, R-200, CRN, CRT, GR, and NR zones as a limited use. It is also currently allowed as a conditional use in the R-90 and R-60 zones. In addition to the zones where it is currently allowed as a limited used, ZTA 16-03 would also allow it as a limited use in the R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20, R-10, CR, RT-6.0, RT-8.0, RT-10.0, RT-12.5, RT-15.0, R-H, PD, T-S, PNZ, and PCC zones,

This Packet Contains  
ZTA 16-03

© number  
1 – 7

Zoning Text Amendment No.: 16-03  
Concerning: Land Use – Bed and  
Breakfast  
Draft No. & Date: 1 – 01/06/16  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

---

By: Councilmember Riemer

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- allow a Bed and Breakfast as a limited use in all Residential and all Commercial/Residential zones;
- revise the definition and requirements for a Bed and Breakfast;
- delete the requirements for a Bed and Breakfast as a conditional use; and
- generally amend the provisions for a Bed and Breakfast

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-3.1. “Use Table”  
Section 59-3.1.6. “Use Table”  
DIVISION 59-3.5. “Commercial Uses”  
Section 59-3.5.6. “Lodging”  
DIVISION 8.2. “Residential Floating Zone”  
Section 8.2.3. “Use Table for the RT and R-H zones”  
DIVISION 8.3. “Planned Unit Development Zones”  
Section 8.3.2. “PD Zone”

**EXPLANATION:** **Boldface** indicates a Heading or a defined term.  
Underlining indicates text that is added to existing law by the original text amendment.  
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.  
Double underlining indicates text that is added to the text amendment by amendment.  
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.  
\* \* \* indicates existing law unaffected by the text amendment.

#### ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-3.1 is amended as follows:**

2   \*   \*   \*

3   **Section 3.1.6. Use Table**

4   The following Use Table identifies uses allowed in each zone. Uses may be  
5   modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards		Residential											Commercial/ Residential			
			Residential Detached					Residential Townhouse			Residential Multi-Unit						
			RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	
* * *																	
COMMERCIAL																	
* * *		* * *															* * *
LODGING	3.5.6																
Bed and Breakfast	3.5.6.B		L	L	L	L	[C] L	[C] L	L	L	L	L	L	L	L	L	L
Hotel, Motel	3.5.6.C															P	P
* * *																	
<b>Key:</b> P = Permitted Use    L = Limited Use    C = Conditional Use    Blank Cell = Use Not Allowed																	
* * *																	

6

7           **Sec. 2. DIVISION 59-3.5 is amended as follows:**

8   **Division 3.5. Commercial Uses**

9   \*   \*   \*

10   **Section 3.5.6. Lodging**

11   **A. Defined, In General**

12       Lodging means a building, dwelling unit, or a portion of a dwelling unit used  
13       for the short-term overnight accommodation of paying guests.

14   **B. Bed and Breakfast**

15           **1.     Defined**

16           Bed and Breakfast means [a detached house that is owner-occupied  
17           with no more than 5 guest rooms for rent and customarily serves  
18           breakfasts to guests.] a dwelling unit that is available for lodging. A  
19           Bed and Breakfast includes a dwelling unit that makes available the  
20           entire dwelling unit or any portion of the unit for rental periods. Meals  
21           may be provided to overnight guests when the provider satisfies the  
22           requirements of Chapter 15.

23           **2.     Use Standards**

- 24           a.     Where a Bed and Breakfast is allowed as a limited use, it must  
25           satisfy the following standards:
- 26           i.     A Bed and Breakfast is prohibited in a dwelling unit [that  
27           also provides guest rooms for roomers, or] in a Farm  
28           Tenant Dwelling, or on a site that includes an Accessory  
29           Apartment.
  - 30           ii.    [The display of a sign must include the official house  
31           number.]
  - 32           [iii.   Breakfast is the only meal that may be served and only  
33           to] The overnight guests on any night must satisfy the  
34           definition of one household.
  - 35           [iv]iii. A guest must only remain in a Bed and Breakfast for a  
36           maximum of [14] 30 days in any one visit.
  - 37           [v]iv. A record of all overnight visitors must be maintained.
  - 38           [vi]v. The Bed and Breakfast must be [registered with DPS]  
39           licensed under Chapter 54.
  - 40           [vii. In the Agricultural, Rural Residential, and Residential  
41           zones, the minimum lot area is the greater of 9,000

42 square feet or the minimum lot area for a detached house  
43 building type in the zone.]

44 [viii. In the Agricultural, Rural Residential, and Residential  
45 zones, on a lot of less than 2 acres, a maximum of 3  
46 bedrooms may be designated as guest rooms for which  
47 compensation is charged.]

48 vi. The dwelling unit must be the primary residence of the  
49 bed and breakfast licensee.

50 [ix]vii. In the Agricultural and Rural Residential zones, a  
51 Bed and Breakfast may be allowed in an accessory  
52 building designated as historic on the Master Plan for  
53 Historic Preservation.

54 [x]viii. [Parking must be located behind the front building  
55 line] On-site parking that satisfies the property's zoning  
56 is required.

57 [xi]ix. In the AR zone, this use may be prohibited if not  
58 accessory to Farming under Section 3.1.5, Transferable  
59 Development Rights.

60 [b. Where a Bed and Breakfast is allowed as a conditional use, it  
61 may be permitted by the Hearing Examiner under all limited  
62 use standards, Section 7.3.1, Conditional Use, and the following  
63 standards:

64 i. The Hearing Examiner may deny a petition for a Bed and  
65 Breakfast with frontage on and access to a road built to  
66 less than primary residential standards if it finds that road  
67 access will be unsafe and inadequate for the anticipated

- 68 traffic to be generated or the level of traffic would have  
 69 an adverse impact on neighboring residences.
- 70 ii. If there is inadequate space for parking behind the front  
 71 building line, the Hearing Examiner may approve an  
 72 alternative placement for parking.
- 73 iii. Screening under Division 6.5 is not required.
- 74 iv. To avoid an adverse neighborhood impact and assure that  
 75 the residential use remains predominant, the Hearing  
 76 Examiner may limit the number of transient visitors who  
 77 may be accommodated at one time or the number of  
 78 visits in any 30-day period.]

79 **Sec. 3. DIVISION 59-8.2 is amended as follows:**

80 **Division 8.2. Residential Floating Zones**

81 \* \* \*

82 **Section 8.2.3. Use Table for the RT and R-H zones**

83 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.

84 B. The following Use Table identifies uses allowed in each zone. Uses may be  
 85 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
* * *							
<b>COMMERCIAL</b>							
* * *							
Eating and Drinking	3.5.3						
Restaurant	3.5.3.B						C <sup>7</sup>
<u>Lodging</u>	<u>3.5.6</u>						
<u>Bed and Breakfast</u>	<u>3.5.6.B</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Office and Professional	3.5.8						
* * *							

86           **Sec. 4. DIVISION 59-8.3 is amended as follows:**

87   **Division 8.3. Planned Unit Development Zones**

88   \*   \*   \*

89   **Section 8.3.2. PD Zone**

90   \*   \*   \*

91   **B.    Uses**

92   \*   \*   \*

93           **2.    Commercial Uses**

94   \*   \*   \*

95                   d.    A Bed and Breakfast is allowed as a limited use under Section  
96                                   3.5.6.B.

97   \*   \*   \*

98           **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the  
99   date of Council adoption.

100

101   This is a correct copy of Council action.

102

103

104   \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

**MEMORANDUM**

TO: County Council

FROM: Jeffrey L. Zyontz,  Senior Legislative Analyst

SUBJECT: **Introduction:** Bill 2-16, Transient Housing – Licensing and Registration

Bill 2-16, Transient Housing – Licensing and Registration, sponsored by Lead Sponsor Councilmember Riemer and Co-Sponsor Councilmember Rice, is scheduled to be introduced on February 2, 2016. A public hearing is tentatively scheduled for March 8, 2016 at 1:30 p.m.

Bill 2-16 would revise Chapter 54 of the County Code. The revisions would update the provisions for hotels, delete forms of transient housing no longer allowed by the Zoning Code (Chapter 59), establishes a less burdensome method of licensing for Bed and Breakfast establishments and assigns responsibilities for licensing between Executive departments.

This Bill anticipates the approval of ZTA 16-03 which will make a Bed and Breakfast a limited use in most residential and mixed-use zones.

This packet contains:	<u>Circle #</u>
Bill 2-16	1
Legislative Request Report	22

Bill No. 2-16  
Concerning: Transient Housing –  
Licensing and registration  
Revised: 2/1/16 Draft No. 4  
Introduced: February 2, 2016  
Expires: August 2, 2017  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Riemer  
Co-Sponsor: Councilmember Rice

---

**AN ACT to:**

- (1) define a bed and breakfast and hotel establishment;
- (2) limit the transient housing allowed to a bed and breakfast and a hotel;
- (3) require only hotels to comply with most current licensing provisions for transient housing;
- (4) revise the requirement for resident hotel management;
- (5) delete the requirement for annual hotel inspections;
- (6) add a requirement for hotel inspections upon complaint;
- (7) establish a licensing system for bed and breakfast establishments;
- (8) amend provisions to make them more precise, concise, and decisive; and
- (9) generally amend Chapter 54 of the County Code.

By amending

Montgomery County Code  
Chapter 54, Transient Lodging Facilities  
Sections 54-1, 54-2, 54-3, 54-4, 54-5, 54-6, 54-7, 54-8, 54-9, 54-10, 54-11, 54-12, 54-13, 54-14, 54-15, 54-16, 54-17, 54-18, 54-19, 54-20, 54-21, 54-22, 54-23, 54-24, 54-25, 54-26, 54-27, 54-28, 54-29, 54-30, 54-31, 54-32, 54-33, 54-34, 54-35, 54-36, 54-37, 54-38, 54-39, 54-40, and 54-41

By adding:

Montgomery County Code  
Chapter 54, Transient Lodging Facilities  
Sections 54-22A, 54-42, 54-43, 54-44, 54-45, 54-46, 54-47, 54-48, and 54-49

<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. Sections 54-1, 54-2, 54-3, 54-4, 54-5, 54-6, 54-7, 54-8, 54-9, 54-10, 54-**  
2 **11, 54-12, 54-13, 54-14, 54-15, 54-16, 54-17, 54-18, 54-19, 54-20, 54-21, 54-22, 54-**  
3 **23, 54-24, 54-25, 54-26, 54-27, 54-28, 54-29, 54-30, 54-31, 54-32, 54-33, 54-34, 54-**  
4 **35, 54-36, 54-37, 54-38, 54-39, 54-40, and 54-41 are amended as follows:**

5 **54-1. Definitions.**

6           For the purposes of this Chapter, unless the language or context clearly  
7 indicates that a different meaning is intended, the following words and phrases  
8 have the following meanings:

9           Average lot grade means the arithmetic average of the highest and lowest  
10 elevations of the ground contiguous to the building.

11           Basement [:That] means that portion of any building [which is] located below  
12 grade [;provided, however, that] when at least one-half of the vertical height  
13 extends above the average lot grade. [Average lot grade, for this purpose, shall  
14 mean the arithmetic average of the highest and lowest elevations of the ground  
15 contiguous to the house.]

16           [Boardinghouse: A dwelling in which, for compensation, lodging, or lodging  
17 and meals, are provided or offered to not more than 5 transient visitors.]

18           Bed and Breakfast [:A] means a dwelling unit or part of a dwelling that is  
19 available to overnight guests for compensation. Overnight guests on any night  
20 must satisfy the definition of one household. A guest must stay at a Bed and  
21 Breakfast for no more than 30 days in any one visit. Meals may be provided  
22 to overnight guests.

23           Cellar [:That] means that portion of any building which is located below grade  
24 and whose vertical height extends less than one-half above the average lot  
25 grade.

26 *Director [and Department:* The term "Director"] means the Director of the  
 27 Department of Health and Human Services, or the Director's designee[, and  
 28 the term "Department" means the Department of Health and Human Services].

29 Department means the Department of Health and Human Services.

30 *Establishment* [:Every hostel, tourist home, boardinghouse, rooming house  
 31 and guestrooms in an apartment hotel which, for compensation, provides or  
 32 offers lodging or lodging and meals to transient visitors.] means a hotel or Bed  
 33 and Breakfast regulated under this chapter.

34 *Fire Code* [:The] means the Fire Prevention Code [set forth] in Chapter 22 [of  
 35 this Code, and any amendments thereto] as amended.

36 *Habitable room* [:Any] means a room in which people normally congregate  
 37 or sleep with a minimum ceiling height of 7 feet. [This shall not include  
 38 bathrooms,] Bathrooms, closets, porches, decks, toilet rooms, storage rooms,  
 39 kitchens, [or] and pantries are not habitable rooms.

40 [*Hostel*] *Hotel* [:Any] means a building or portion [thereof or any group of  
 41 buildings] of a building where, for compensation, lodging or lodging and  
 42 meals are provided or offered to 3 or more transient visitors [, including hotels,  
 43 motels, tourist courts, motor courts, tourist camps and similar establishments  
 44 such as apartment hotels]. Hotel includes a motel, but not a bed and breakfast.

45 *Household* means a person living alone, or any one of the following groups  
 46 living together as a single housekeeping unit and sharing common living,  
 47 sleeping, cooking, and eating facilities:

- 48 1. any number of people related by blood, marriage, adoption, or  
 49 guardianship;
- 50 2. up to 5 unrelated people; or

51           3.    2 unrelated people and any children, parents, siblings, or other  
 52                   persons related to either of them by blood, adoption, or  
 53                   guardianship.

54           *[Liquid wastes:* Human excreta, bath water, wash water, laundry wastes,  
 55                   dishwater and any other liquid wastes resulting from cleaning operations.  
 56                   Gasoline and explosive or inflammable liquids are not included.]

57           Lodging [The] means the short-term overnight accommodation of a paying  
 58                   guest.

59           Plumbing Code [The] means the Plumbing Code [in effect within the  
 60                   jurisdiction of] adopted by the Washington Suburban Sanitary Commission,  
 61                   [and any other jurisdictions in the County having or subsequently adopting a  
 62                   Plumbing Code, and any changes or revisions thereof] as amended.

63           *[Rooming house:* In a residential zone, shall mean a dwelling in which, for  
 64                   compensation, lodging is provided or offered to 3 or more but not exceeding  
 65                   9 guests.]

66           Solid wastes [:] means garbage, trash, sweepings, animal refuse and dead  
 67                   animals.

68           *[Tourist home:* A dwelling in which, for compensation, lodging or lodging  
 69                   and meals are provided or offered to not more than 12 transient visitors.]

70           Transient visitor [A] means a person who [obtains] purchases lodging, [or  
 71                   lodging and] with or without meals, [upon payment or promise of payment  
 72                   [therefor at the same premises] for a continuous period of [not more than] 6  
 73                   months or less.

74    **54-2. Authority of [county executive] Executive to regulate and license.**

75           The [county executive] Executive [,in order to implement the health standards  
 76                   and regulations of this chapter, is hereby authorized by law to] may adopt

77 [such] regulations, under method (3) [of section 2A-15 of this Code],  
 78 concerning the operation, maintenance [and], conduct, licensing, and license  
 79 fees for [of] a [any of the types of establishments] hotel or bed and breakfast  
 80 [referred to in this chapter, including provision of such licenses and license  
 81 fees for such establishments as he may deem appropriate].

82 **54-3. Guest register - Required [to be kept by hotels, tourist homes, etc.;**  
 83 **information to be shown].**

84 Any person who owns or operates a hotel, [rooming house, tourist home,  
 85 motel, or tourist cabin park] in the County must maintain on the premises a  
 86 permanent register [in which must be inscribed in ink in legible writing]  
 87 containing:

- 88 (a) the name of each visitor;  
 89 (b) the residence address of each visitor, including state, city or town, street  
 90 and street number or rural mail delivery route number;  
 91 (c) the number of the room or facility occupied by each visitor; and  
 92 (d) the date and time of registration and checkout of each visitor.

93 [In tourist homes, motels, and tourist cabin parks the] The register must  
 94 include a record of the license plate numbers and state of registration of any  
 95 automobiles or trailers [in or with which the guests are traveling] that guests  
 96 are using. The owner or operator of the establishment must see that the license  
 97 plate and automobile or trailer registration information is correct. A person  
 98 must not occupy any room [or facility] until [after] the registration required  
 99 under this section is provided. The permanent register may be in a bound  
 100 book, looseleaf book, or cards. If a looseleaf book or cards are used, the pages  
 101 or cards must be numbered consecutively before use and all numbered pages  
 102 or cards must be kept even though they are not used. The register [provided  
 103 for] required by this section must be kept for at least 3 years and must be open

104 to inspection upon the request of the Director or of any law enforcement  
105 officer of the county or the state.

106 **54-4. Same-Giving or permitting false information to be given prohibited.**

107 [It shall be unlawful for any] A person must not knowingly [to inscribe] write  
108 any false or incorrect name or address or license plate number in any such  
109 register. [It shall be unlawful for the] The owner, [or] manager, or employee  
110 of [any type of establishment or any employee thereof] a hotel must not [to]  
111 knowingly [to] permit any person to [inscribe] write any false name or address  
112 or license plate number in any such register.

113 **Article II. [Hostels, Rooming Houses, Boardinghouses and Tourist Homes]**

114 **Hotels.**

115 **54-5. Numbering of rooms.**

116 Every [establishment shall] hotel must have a unique number on the corridor  
117 side of the door to each guest room [and no two (2) doors shall bear the same  
118 number].

119 **54-6. Limitation on admission of visitors.**

120 [No establishment shall] A hotel must not admit more visitors than the number  
121 for which it is licensed.

122 **54-7. Inspection of register by county officials.**

123 Registers kept [in accordance with] under section 54-3 [shall] must always be  
124 available at the [establishment] hotel for inspection by the [director] Director,  
125 the fire marshal, the [county] police chief and [such other officials as may be  
126 designated by the above named officials] their designees. The licensee may  
127 request the official to present [Presentation of] proper credentials or proof of  
128 identity [may be requested by the licensee].

129 **54-8. Owner, operator or manager to reside on premises.**

130 The owner, operator, or a responsible manager appointed by the owner or  
131 operator [shall reside on the premises of] must be on-site at all times at each  
132 [establishment] hotel.

133 **54-9. Parking facilities.**

134 Every [establishment shall] hotel must provide off-street automobile parking  
135 for visitors as [is set forth in the zoning ordinance] required by, chapter 59 of  
136 [the Montgomery County] this Code, as amended. [No license shall be issued  
137 by the director unless he finds the required parking facilities have been  
138 provided.]

139 **54-10. Administration and enforcement of article generally.**

140 The [director is hereby authorized and directed to] Director must administer  
141 and enforce [the provisions of] this chapter with the assistance of other County  
142 departments, as necessary. [All department heads in the county government  
143 are hereby authorized and directed to provide such assistance as may be  
144 required by the director for the purpose of enforcing this article.]

145 **54-11. Right of entry of county officials.**

146 [For the purpose of enforcing this article, the director] The Director, the fire  
147 marshal, the [county] police chief and [such other officials as may be  
148 designated by the above named county officials shall] their designee, upon  
149 exhibiting the proper credentials or proof of identity, [have the right to] may  
150 enter any [establishment for the purpose of making] hotel to make any  
151 necessary inspection [they may deem necessary at any time] during business  
152 or operating hours [, and at such]. Inspections may also occur at other times  
153 [as] if the county officials find [may be necessary in the public interest] it  
154 necessary to protect the health and safety of any person.

155 **54-12. Responsibility for compliance with article.**

156 The owner or operator of [an establishment] a hotel, and [his] the hotel's agent  
 157 or manager, [shall be] are responsible for [conforming to the provisions of]  
 158 complying with this article.

159 **54-13. Violation of article; penalties [and injunctive, etc., relief].**

160 [Any person who violates] A violation of any provision of this article [shall  
 161 be] is [subject to punishment for] a class A violation [as set forth in section 1-  
 162 19 of chapter 1 of the County Code]. [Each day such violation shall continue  
 163 shall be deemed a separate offense.]

164 **54-14. License required [Required].**

165 [No] Any building [or premises shall be] occupied or used as a [hostel,  
 166 rooming house, boardinghouse or tourist home] hotel within the county  
 167 [unless a license shall have been issued] must be licensed for such occupancy  
 168 and use by the [director, nor shall any] Director. An operator of a [such  
 169 building or premises be so occupied and used] hotel must cease operating  
 170 immediately after [such] the license has expired, or has been revoked or  
 171 suspended.

172 **54-15. Application.**

173 Before the Director issues an annual license for any [establishment shall be  
 174 issued by the director] hotel under this [division, an application shall be filed  
 175 by] Division, the owner or operator, or [his duly] their authorized agent, [in  
 176 accordance with] must file an application that satisfies the regulations  
 177 [prescribed] approved by the [county executive] Executive under method (3)  
 178 of section 2A-15 of this Code.

179 **54-16. Compliance with Code, [etc., prior to] before issuance.**

180 [No license shall be issued to] The Director must not issue a license to any  
 181 [establishment] hotel [to] under this [division] Division unless [such] the

182 proposed [establishment is in conformance] hotel conforms with the  
 183 applicable provisions of this Code [and other ordinances of the county].

184 **54-17. Certificates to be filed [prior to] before issuance.**

185 The Director must not issue an initial [annual] license or license renewal under  
 186 this Division unless the applicant files [the following certificates have been  
 187 filed] with the Department a certificate:

- 188 (a) [A certificate] of use and occupancy from the Department of Permitting  
 189 Services[.];
- 190 (b) [A certificate] from the fire marshal stating that the building [is in  
 191 compliance with] complies with the fire prevention code[.]; and
- 192 (c) [A certificate] from the Director stating that the building or buildings  
 193 and rooms to be occupied or used by the guests of the [establishment]  
 194 hotel, and the premises on which such buildings are located, [are in  
 195 compliance with] comply with the standards and regulations of the  
 196 County and State Boards of Health.

197 **54-18. Separate license required for each establishment.**

198 [Each individual establishment] The Director must require each hotel,  
 199 [although] operated by the same management, [shall be required] to obtain a  
 200 separate license under this [division] Division.

201 **54-19. Fees.**

202 The Executive must establish annual fees for licenses under this [division shall  
 203 be of such amount as may be established by the county executive] Division  
 204 by [written] regulation adopted under method (3) of section 2A-15 of this  
 205 Code. [and shall] Fees must not exceed an amount necessary to defray the  
 206 costs of administering this [chapter] Chapter.

207 **54-20. Denial where operator has been convicted of certain state law violations.**

208 The Director may deny an initial [or annual] license or license renewal to  
 209 operate [an establishment] a hotel under this Division if the Director finds the  
 210 owner or operator of the proposed [establishment has been] hotel was  
 211 convicted of violating the following provisions of the Criminal Law Article  
 212 of the Maryland Code:

- 213 (a) Section 10-202 (keeping disorderly house);
- 214 (b) Title 12 (gaming);
- 215 (c) Title 5 (controlled dangerous substances, prescriptions, and other  
 216 substances); or
- 217 (d) Section 10-201 (disturbing the public peace and disorderly conduct).

218 The Director may deny an initial [or annual license] or license renewal  
 219 if the owner or operator [has been] was convicted of any similar offense  
 220 outside Maryland.

221 **54-21. Procedure for issuance or denial.**

- 222 (a) [Upon receipt of] When an application for [an annual] a license under  
 223 this [division] Division, or [for renewal of a] when a previously issued  
 224 license is in the renewal process, the [director shall make or cause to be  
 225 made] Director or the Director's designee must conduct all investigations  
 226 and inspections required by this article. The [director shall act upon]  
 227 Director must approve or deny the application within [ninety (90)] 90  
 228 days after the date of filing, or as soon thereafter as practicable. [In cases  
 229 in which an application] Applications for renewal of [an annual] a  
 230 license [has been] filed on or before October 1 [as provided in section]  
 231 under Section 54-25 and [has] that have not been [neither] approved or  
 232 [disapproved] denied by the [director prior to] Director before the  
 233 following January 1, [the current license shall remain] remain in [full

234 force and] effect until approved or denied by the Director application  
 235 [has been acted upon by the director].

236 (b) If, [upon the completion of] after all investigations and inspections are  
 237 completed, the [director] Director finds that the [establishment] hotel  
 238 for which a license under this [division] Division is requested does not  
 239 [comply with the provisions] satisfy the requirements of this chapter, [he  
 240 shall] the Director must, within [ten (10)] 10 days after making such a  
 241 finding, [cause to be served upon the applicant written] transmit notice  
 242 of such finding to the applicant [and shall in such]. The notice must  
 243 advise the applicant of the necessary corrective measures to be taken  
 244 before [a license will be issued] the Director will issue the license. The  
 245 [director] Director may [, in such notice,] direct the applicant to appear  
 246 [before him] within [ten (10)] 10 days from the date of service of the  
 247 notice to show cause why the license should not be denied. If the  
 248 applicant [shall fail] fails to show cause as directed in such notice, or  
 249 [shall fail] fails to take the necessary corrective action [specified  
 250 therein], the [director shall refuse to issue or renew such license] Director  
 251 may deny the application.

252 (c) [All] The Director must send all of the Director's orders and notices  
 253 [issued by the director hereunder shall be served upon] to the applicant  
 254 either by registered mail or by personal delivery at the address shown on  
 255 the application. If the applicant cannot be found in the [county] County,  
 256 service by personal delivery [shall] must be made [upon] to the person  
 257 who is [at the time] in charge of the [establishment] hotel.

258 **54-22. Display.**

259 [Each] The applicant must prominently display each license issued under this  
 260 [division shall be prominently displayed] Division in the [establishment] hotel  
 261 for which it was issued.

262 **54-22A. Complaints**

263 (a) The Director must investigate any complaints that a licensee is in violation  
 264 of this Article within 30 days of receiving the complaint/s./s.

265 (b) If a violation is found, the Director must issue written notice of the  
 266 violation to the owner or operator requiring that the violation be corrected  
 267 immediately.

268 (c) If the violation is not corrected immediately, the Director may revoke or  
 269 suspend the license under Section 54-26.

270 **54-23. Change of location of establishment; transfer.**

271 (a) Whenever [an establishment] a hotel changes its location, the current  
 272 license held by such owner or operator under this [division shall  
 273 automatically become] Division is void.

274 (b) The [director] Director may [, in his discretion,] authorize the transfer of  
 275 a license issued under this [division] Division to a new owner or operator  
 276 upon an application for transfer of the license and payment of a transfer  
 277 fee [which shall be established by the county executive]. The Executive  
 278 must establish the transfer fee by [written] regulation adopted under  
 279 method (3) of section 2A-15 of this Code.

280 **54-24. Expiration.**

281 All [annual] licenses issued under this [division shall] Division expire on  
 282 December 31 of the year for which they are issued, unless sooner revoked or  
 283 suspended [as provided in] under this [article] Article.

284 **54-25. Renewal.**

285 [Every establishment shall, on] On or before July 1 of each year, every hotel  
 286 must make application to the department for renewal of the [annual] license  
 287 required by this [division] Division. Before [an annual] a license for any  
 288 [establishment shall be] hotel is renewed by the [director, the director shall  
 289 have received] Director, the Director must receive, [within ninety (90) days  
 290 prior to renewing any such license,] certificates as [prescribed in section]  
 291 required by Section 54-17 [, which shall indicate thereon that the premises  
 292 have been inspected within ninety (90) days prior to the expiration of the  
 293 license]. The Director must renew the license after receiving the certificates,  
 294 completing any outstanding complaint investigations, and finding that the  
 295 application satisfies this Article.

296 **54-26. Revocation or suspension generally.**

297 (a) The [director] Director may revoke or suspend any license issued under  
 298 this [division upon finding] Division if the Director finds that the owner  
 299 or operator of any [establishment] hotel is in violation of any provision  
 300 of this [article] Article. Any such revocation or suspension [shall] must  
 301 be by written order directed to [and served upon] the owner or operator  
 302 of such establishment [in the manner prescribed in subsection (c) of  
 303 section] under the procedures of subsection 54-21(c). Any such notice  
 304 of revocation or suspension [shall] must require the holder of the license  
 305 to appear before the [director] Director and show cause why the license  
 306 should not be revoked or suspended [in the manner provided above].

307 (b) The Director may revoke or suspend any license issued under this  
 308 Division if the Director finds that the [establishment] hotel is disruptive  
 309 to the general peaceful enjoyment, dangerous to the health and safety,  
 310 of the community or a nuisance because of noise or indecent or immoral  
 311 activity by any guest, owner, operator or employee. The Director may

312 also revoke or suspend any license issued under this Chapter if the  
 313 owner or operator of the [establishment] hotel has, while operating the  
 314 establishment, been convicted of violating:

- 315 (1) the provisions of the Criminal Law Article of the Maryland Code  
 316 [listed] in section 54-20; or  
 317 (2) the drunkenness and disorderly conduct provisions of Section 10-  
 318 201 of the Criminal Law Article of the Maryland Code while on  
 319 the licensed premises.

320 Revocation or suspension of a license under this subsection must follow  
 321 the procedures in Section 54-21(b).

322 **54-27. Appeals from denial, revocation or suspension.**

323 Any person aggrieved by the denial, revocation or suspension of a license  
 324 under this [division] Division may appeal from the action of the [director]  
 325 Director to the [county board of appeals] Board of Appeals. Such person  
 326 [shall] must file a [written] notice of appeal with the clerk of the [board of  
 327 appeals] Board of Appeals within [twenty (20)] 20 days after service of notice  
 328 of such action. Upon receiving such appeal, the [board of appeals shall] Board  
 329 of Appeals must hold a hearing [thereon] within [thirty (30)] 30 days after the  
 330 notice of appeal has been filed, and [shall] must act upon [such] the appeal  
 331 within [thirty (30)] 30 days after the hearing. [The council may, by resolution  
 332 entered on its minutes, extend such periods of time.]

333 **Division 3. Health Standards and Regulations.**

334 **54-28. Water and sewer facilities.**

335 Water and sewer facilities in every [establishment] hotel must be connected  
 336 to public lines where such lines are available. [In the event no] When public  
 337 sewer lines are not available, the [sewage must be collected, treated and  
 338 disposed of in an independent sewerage system which complies with the

339 standards of the excreta disposal laws of the State and of] private sewage  
340 system must satisfy Chapter 45 of this Code. [In the event no] When public  
341 water lines are not available, [no] only a water supply [may be used by an  
342 establishment unless it has been] approved by the Director [of the Department  
343 of Health and Human Services] may be used.

344 **54-29. Plumbing facilities.**

345 [All plumbing facilities in establishments shall be constructed, installed and  
346 maintained so as to prevent sanitary hazards.] Toilet and bath facilities [shall  
347 be provided in accordance with] must satisfy the plumbing code for the  
348 Washington Suburban Sanitary Commission [and any amendments thereto]  
349 as amended.

350 **54-30. Disposal of solid waste.**

351 All solid waste [at establishments shall] must be stored in covered metal  
352 receptacles [which shall be]. These receptacles must be removed from the  
353 premises and cleaned at least once a week or as often as [prescribed by the  
354 director] the Director requires. All such waste [shall be burned, buried or  
355 otherwise] must be disposed of in [such] a manner [as] that does not [to]  
356 constitute a nuisance [or to be accessible to animals or flies].

357 **54-31. [Screens.] Insects.**

358 [All outside doors, windows and other outside openings in establishments  
359 shall be adequately screened against flies, mosquitoes and other insects. If the  
360 establishment is completely air-conditioned, screening shall not be required.]  
361 All interior spaces must be maintained free of all insects. Any infestation  
362 must be immediately addressed by management.

363 **54-32. Minimum size of rooms.**

364 (a) [No] Any habitable room [shall be occupied at] in

365 [an establishment unless it contains] a hotel must be at least [seventy  
 366 (70)] 70 square feet in floor area and there must be at least [fifty (50)] 50  
 367 square feet of floor area for each person. Children under [twelve (12)] 12  
 368 years of age [shall be] are counted as one-half person. Children under  
 369 [one] [(1)] 1 year of age [shall] are not counted as a person for the purpose  
 370 of this requirement.

371 (b) At least one-half of the floor area of every habitable room [shall] must  
 372 have a ceiling height of at least [seven (7)] 7 feet, and the floor area of  
 373 that part of any room where the ceiling height is less than [five (5)] 5 feet  
 374 [shall] is not [be] considered as part of the floor area in computing the  
 375 total floor area of the room for the purpose of determining the maximum  
 376 permissible occupancy [thereof] of the room.

### 377 **54-33. Heating and ventilation.**

378 All rooms in [establishments shall] hotels must be adequately heated and  
 379 ventilated. Every habitable room [shall] must have at least one [(1)] easily  
 380 opened window or skylight [which can easily be opened], or such other device  
 381 [as will] that adequately [ventilate] ventilates the room. Every [establishment  
 382 shall] hotel must have a heating [facilities which are] system. The heating  
 383 system must be properly installed and maintained in safe and good working  
 384 condition [. Such heating facilities shall be] capable of safely and adequately  
 385 heating all habitable rooms, bathrooms and water closet compartments to a  
 386 temperature of at least [seventy (70)] 70 degrees Fahrenheit at a distance of  
 387 [three (3)] 3 feet above floor level under ordinary minimum winter conditions.

### 388 **54-34. Lighting.**

389 All rooms in [establishments shall] hotels must be adequately lighted [by  
 390 either natural or artificial light and additional] including light [shall be  
 391 provided] for reading [purposes].

392 **54-35. Basement rooms.**

393 [No habitable room shall be located in the basement of an establishment unless  
 394 the] Only when basement floors and walls are constructed of material  
 395 impervious to water, may a habitable room be located in a basement.

396 **54-36. Cellar rooms.**

397 A room in a cellar [shall not be considered] is not a habitable room [and shall  
 398 not be used by any establishment for habitation].

399 **54-37. Bedding and linen.**

400 (a) All mattresses, blankets and other bedding used at [establishments shall]  
 401 hotels must be kept clean and free of bedbugs.

402 (b) Clean sheets and pillow slips [shall] must be provided in  
 403 [establishments] hotels at least once each week and after each  
 404 succeeding guest.

405 [(c) Two (2) clean towels shall be provided for each establishment guest at  
 406 least twice each week and after each succeeding guest.]

407 **54-38. [Drinking glasses.] Reserved.**

408 [Drinking glasses used in any establishment shall be sterilized at least after  
 409 each succeeding guest and common drinking glasses shall be prohibited.]

410 **54-39. Food, dining rooms and kitchens.**

411 Food, public dining rooms and kitchens in each [establishment shall comply  
 412 with the provisions of chapter] hotel must satisfy Chapter 15 of this Code [and  
 413 any amendments thereto] as amended.

414 **54-40. Maintenance of premises.**

415 Every owner or operator of [an establishment shall be] a hotel is responsible  
 416 for maintaining all parts of the establishment, in a clean and sanitary condition  
 417 [all parts of the establishment], including the land on which the

418 [establishment] hotel is located. Every owner or operator [shall be] is  
 419 responsible for maintaining the [establishment] hotel in good repair.

420 **54-41. Inspections and report of violations of article.**

421 The Department [of Health and Human Services] is responsible for making  
 422 all necessary inspections [of the establishments] regulated under this Article  
 423 and must report to the Director any violations of this Division.

424 **Article III. [Reserved] Bed and Breakfast.**

425 **54-42. License required.**

426 A person must not operate a bed and breakfast in the County without a license  
 427 issued by the Director. After the initial issuance of a license, the license must  
 428 be renewed once a year.

429 **54-43. Certification for a License.**

430 An application for a bed and breakfast license or a license renewal must be  
 431 signed by the applicant. The applicant must certify that:

- 432 (a) the building in which the bed and breakfast is located complies with all  
 433 applicable zoning standards under Chapter 59 of this Code;  
 434 (b) the overnight occupants of each dwelling unit will satisfy the definition  
 435 of one household;  
 436 (c) only habitable rooms will be used by guests;  
 437 (d) smoke detectors operate as designed;  
 438 (e) sanitation facilities operate as designed;  
 439 (f) the applicant has not been found guilty of a violation of this Chapter in  
 440 the past 12 months;  
 441 (g) all local taxes and required fees are paid in full;  
 442 (h) the dwelling unit where the bed and breakfast is located is the primary  
 443 residence of the applicant; and  
 444 (i) the applicant is the owner or authorized agent of the facility.

445 **54-44. Applications.**

446 The Director must establish an electronic method of submitting, issuing,  
447 renewing, denying, and revoking an application for a license through the  
448 internet.

449 **54-45. License Approval and Renewal.**

450 The Director must:

- 451 (a) accept the self-certification of the applicant after verifying compliance  
452 by reviewing available records; and
- 453 (b) approve or deny a license or a license renewal within 15 working days  
454 after receipt of the application and all required fees unless the Director  
455 receives a challenge to the certifications under Section 54-47.

456 **54-46. Challenge to Certifications.**

- 457 (a) A challenge to any required certification made by the applicant may be  
458 filed with the Director within 30 days after the application is filed by:
- 459 (1) a resident or owner of real property located within 300 feet of a  
460 licensed or proposed bed and breakfast; or
- 461 (2) a civic or homeowner's association comprised of property  
462 owners located within 300 feet of a licensed or proposed bed and  
463 breakfast.
- 464 (b) The Director must, within 60 days after receipt of the challenge:
- 465 (1) provide notice of the challenge to the applicant;
- 466 (2) provide an opportunity for the applicant to respond to the  
467 challenge;
- 468 (3) investigate the question of fact raised by the challenge; and
- 469 (4) revoke or deny the license if the Director finds that one or more  
470 facts certified by the applicant is false.

471 **54-47. Appeals.**

472 Any person aggrieved by an approval, denial, revocation or suspension of a  
473 bed and breakfast license may appeal the decision to the Board of Appeals.  
474 The Board of Appeals must hold a hearing on the appeal within 30 days after  
475 the notice of appeal has been filed, and must act on the appeal within 30 days  
476 after the hearing.

477 **54-48. Effect of a revocation.**

478 For a period of 3 years after a license is revoked, the Director must not issue a  
479 bed and breakfast license to:

- 480 (a) the former licensee or a member of the former licensee's household; or
- 481 (b) any applicant for a license to use the same dwelling unit where the license  
482 was revoked.

484 *Approved:*

485

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Nancy Floreen, President, County Council Date

486 *Approved:*

487

---

Isiah Leggett, County Executive Date

488 *This is a correct copy of Council action.*

489

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 2-16

### *Transient Housing – Licensing and Registration*

<b>DESCRIPTION:</b>	The Bill would amend Chapter 54 of the County Code by updating and simplifying licensing and registration requirements.
<b>PROBLEM:</b>	The code includes forms of transient housing that are no longer permitted by the zoning code. The requirements for hotels are out dated. The requirements for non-hotels are overly burdensome. The Department responsible for all forms of transient housing has only issued licenses for hotels.
<b>GOALS AND OBJECTIVES:</b>	The Bill will make the process for licensing and registration more efficient for hotels and other transient housing.
<b>COORDINATION:</b>	Department of Permitting Services, Health and Human Services and Housing and Community Development.
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Departments of Permitting Services, Health and Human Services and Housing and Community Development.
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	NA