



### (ZTA 17-03) Accessory Residential Uses – Short-Term Rental

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Completed: 7/6/17

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#### Description

Zoning Text Amendment (ZTA) 17-03, as introduced, modifies the definition of “Household Living”; defines “Short-Term Residential Rental” (STRR); and establishes limited use standards for Short-Term Residential Rental. The Planning Board's recommendations on ZTA 16-03, dated May 11, 2017, were formalized by the introduction of ZTA 17-03 and revisions to Bill 2-16 (originally introduced February 2, 2016 as a companion to ZTA 16-03 and pertaining to the licensing and registration for transient lodging). No substantive changes have been made to the Board's recommendations as part of this ZTA.

#### Summary

**Staff recommends approval of ZTA 17-03 as introduced and the applicable revisions to Bill 2-16 since the proposed standards and regulations mirror those transmitted by the Board to the County Council as part of ZTA 16-03. It should be noted that the Board continues to suggest that the Council consider appointing one agency to oversee both short and long term residential rentals to make it easier for the public to know who to contact should problems arise.**

#### Background/Analysis

As discussed in more detail in the Board's transmittal letter and the technical staff report for ZTA 16-03 (included as Attachment 3), the Board and technical staff recommended a different approach to addressing the issue of short-term tenancy separate from the introduced modifications to the Bed and Breakfast use category, as depicted in ZTA 16-03, in a way that attempts to balance the demand for this use while minimizing its impacts to neighborhoods. As discussed previously in the analysis of ZTA 16-03, Council Staff believed that some of the ZTA provisions recommended by the Board should go in Chapter 54, Transient Lodging, as they pertained to regulations dealing with licensing and enforcement of STRRs. The Board and Planning Staff had no objection to putting some of the recommended provisions in Chapter 54. Planning Staff worked with Council Staff on specific language in ZTA 16-03 and associated Bill 2-16. ZTA 17-03 and the applicable revisions to Bill 2-16 express the Board's recommendations on

providing short term rentals without making substantive changes to the existing provisions governing a Bed and Breakfast use. For your convenience, the Board's recommendations are summarized below. Staff depicts in bold whether the Board's recommendations are provided in ZTA 17-03, Bill 2-16 or in both documents.

- The short-term rental use of residential property should be regulated separately from a Bed and Breakfast use, thereby maintaining the "spirit" of the current Bed and Breakfast use and its definition (to be allowed only in an owner-occupied detached house), including many of the existing use standards.
- 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. **(ZTA 17-03)**
- Short term residential occupancy of a dwelling or room should be restricted to a maximum specified number of days per year (90) only if the "host" will not be present during the rental period but a limit on the maximum number of days is not necessary when the host remains in the home during the Short-Term Residential Rental stay. **(ZTA 17-03)**
- All short-term rentals should be monitored and licensed by the County. **(ZTA 17-03 & Bill 2-16)**
- The Board also suggested an enforcement measure that would suspend a host's Short-Term Residential Rental license if at least three verified complaints against that host have been received within a calendar year. **(Bill 2-16)**
- The Board further recommended that the property owner or tenant who "hosts" the short-term rental of the unit be the primary resident of the home. **(ZTA 17-03 & Bill 2-16)**
- Prohibit STRRs on properties that include a farm tenant dwelling or an accessory apartment. **(ZTA 17-03)**
- Require that the STRR comply with any HOA or condo association document, or a rental lease. **(Bill 2-16)**
- Require that an applicant notify all abutting and confronting neighbors about the application for an STRR license. **(Bill 2-16)**
- Limit the total number of overnight guests per STRR (over 18 years old) to six and the total number of overnight guests per bedroom to two. **(ZTA 17-03 & Bill 2-16)**
- Require the host to maintain a list of all overnight visitors. **(Bill 2-16)**
- Require one off-street parking space per rental contract unless the online listing indicates that vehicle parking is prohibited. **(ZTA 17-03)**
- Allow only registered guests on the property to prevent parties, events, etc. that would be disruptive to residential neighborhoods. **(Bill 2-16)**
- Require the applicant to post rules and regulations inside the rental. **(Bill 2-16)**
- Require the host to provide contact information for a designated representative that resides within 15 miles of the property and that is available to deal with emergencies if the host is not present. **(Bill 2-16)**

- Require the home to have working, accessible fire extinguishers, smoke detectors, and where appropriate, carbon monoxide detectors. **(Bill 2-16)**

## **Conclusion**

Staff recommends approval of ZTA 17-03 as introduced and the applicable revisions to Bill 2-16 pertaining to Short-Term Residential Rentals since the proposed standards and regulations mirror those transmitted by the Board to County Council as part of ZTA 16-03. It should be noted that the Board continues to suggest that the Council consider appointing one agency to oversee both short and long term residential rentals to make it easier for the public to know who to contact should problems arise.

## **Attachments**

1. ZTA 17-03 as introduced
2. Excerpts from Bill 2-16
3. Planning Board recommendation (5/17/17), Citizen Comments and Staff report on ZTA 16-03 (5/11/2017)

# ATTACHMENT 1

Zoning Text Amendment No.: 17-03  
Concerning: Accessory Residential  
Uses – Short-Term Rental  
Draft No. & Date: 1 – 6/1/17  
Introduced: June 13, 2017  
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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Lead Sponsor: Council President at the request of the Planning Board

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

- modify the definition of “Household Living”;
- define “Short-Term Residential Rental”;
- establish limited use standards for short-term residential rental; and
- generally amend provisions allowing for short-term residential rentals

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”
Section 59-3.1.6.	“Use Table”
DIVISION 59.3.3.	“Residential Uses
Section 59.3.3.3.	“Accessory Residential Uses”
DIVISION 59-3.5.	“Commercial Uses”
Section 59-3.5.6.	“Lodging”
DIVISION 8.2.	“Residential Floating Zones”
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”

And adding the following section:

Section 3.3.3.I. “Short-Term Residential Rental”

**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:*

**Sec. 1. DIVISION 59.1.4 is amended as follows:**

### Division 59.1.4. Defined Terms

\* \* \*

### **Section 59.1.4.2. Specific Terms and Phrases Defined**

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

\* \* \*

**Shooting Range (Outdoor):** See Section 3.5.10.J.1

**Short-Term Residential Rental:** See Section 3.3.3.I

\* \* \*

**Sec. 2. DIVISION 59-3.1 is amended as follows:**

\* \* \*

### Section 3.1.6. Use Table

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

[illegible]

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

**DIVISION 59.3.3. Residential Uses**

**Section 3.3.1. Household Living**

**A. Defined, In General**

Household Living means the residential occupancy of a dwelling unit by a household [on a monthly or longer basis] for 30 consecutive days or longer.

\* \* \*

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

\* \* \*

**I. Short-Term Residential Rental**

**1. Defined**

Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast.

**2. Use Standards**

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment.
- b. The dwelling unit used as a Short-Term Rental must be the applicant's primary residence, regardless of dwelling unit type.
- c. If the applicant is not present in the residence, the property can be used as a Short-Term Residential Rental for a maximum of 90 days in a calendar year. If the applicant is present in the residence during the rental stay, there is no limitation on the number of days the property can be used as a Short-Term Residential Rental.

- d. The use must be licensed under Chapter 54.
- e. The maximum number of occupants is limited by Chapter 26, Section 5; however, the total number of overnight guests in the Short-Term Residential Rental who are 18 years or older is limited to six, and the total number of overnight guests over 18 years of age per bedroom is limited to two.
- f. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.

\* \* \*

**Sec. 4. DIVISION 59-3.5 is amended as follows:**

**Division 3.5. Commercial Uses**

\* \* \*

**Section 3.5.6. Lodging**

**A. Defined, In General**

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

**B. Bed and Breakfast**

**1. Defined**

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. A Bed and Breakfast is not a Short-Term Residential Rental.

\* \* \*

**Sec. 5. DIVISION 59-8.2 is amended as follows:**

**Division 8.2. Residential Floating Zones**

\* \* \*



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

- A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- B. The following Use Table identifies uses allowed in each zone. Uses may be 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>RESIDENTIAL</b>							
* * *							
Accessory Residential Uses	3.3.3						
* * *							
<u>Short-Term Residential Rental</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>
* * *							

**Sec. 6. DIVISION 59-8.3 is amended as follows:**

**Division 8.3. Planned Unit Development Zones**

\* \* \*

**Section 8.3.2. PD Zone**

\* \* \*

**B. Uses**

**1. Residential Uses**

\* \* \*

- c. Short-Term Residential Rental is allowed as a limited use under Section 3.3.3.I.

\* \* \*

87           **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the  
88   date of Council adoption.

89

90   This is a correct copy of Council action.

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92   \_\_\_\_\_

93   Linda M. Lauer, Clerk of the Council

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

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

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

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

Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days as allowed under Section 59-3.3.3.I of this Code.

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

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

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

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

\* \* \* \*

**Article III. [Reserved] Bed and Breakfast and Short Term Residential Rental.****54-42. License required.**

A person must not operate a bed and breakfast or short term residential rental in the County without a license issued by the Director. After the initial issuance of a license, the license must be renewed once a year.

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

An application for a bed and breakfast license or short term residential rental or a license renewal for either use must be signed by the applicant. The applicant must certify that:

- (a) the building in which the bed and breakfast or short term residential rental is located complies with all applicable zoning standards under Chapter 59 of this Code;
- (b) [[the overnight occupants of each dwelling unit will satisfy the definition of one household]] the total number of overnight guests in the short term residential rental who are 18 years or older is limited to six, and the total number of overnight guests over 18 years of age per bedroom is limited to two.
- (a) only habitable rooms will be used by guests ;
- (d) smoke detectors in all units and carbon dioxide detectors in all units using natural gas operate as designed;
- (e) sanitation facilities operate as designed;
- (f) the applicant has not been found guilty of a violation of this Chapter in the past 12 months;
- (g) all local taxes and required fees are paid in full;
- (h) the dwelling unit where the bed and breakfast or short term residential rental is located is the primary residence of the applicant; [[and]]
- (i) the applicant is the owner or authorized agent of the facility;

- (j) the applicant posted rules and regulations inside the rental, including contact information for a representative designated for emergency purposes;
- (k) the designated representative resides within 15 miles of the unit and be accessible for the entirety of any contract where the primary resident is not present;
- (l) a record of all overnight visitors will be maintained and readily available for inspection;
- (m) abutting and confronting neighbors, and where applicable, the municipality in which the residence is located, was notified of the application. In an apartment or condominium building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit were notified of the application;
- (n) the application is permitted by any Home Owner's Association or condominium document, or a rental lease; and
- (o) except for persons visiting the primary resident, only registered guests will be allowed on the property.

**54-44. Applications.**

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

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

The Director must:

- (a) accept the self-certification of the applicant after verifying compliance by reviewing available records; and

- (b) approve or deny a license or a license renewal within 15 working days after receipt of the application and all required fees unless the Director receives a challenge to the certifications under Section 54-47.
- (c) Each license must be issued for a term of one year, renewable for additional one-year terms, subject to payment of the license fee and compliance with all applicable laws.

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

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

**54-47. Suspension**

- (a) The license must be suspended for any applicant receiving at least three verified complaints within a calendar year.
- (b) Renewal or reinstatement of licenses must follow procedures established by the Director.

**Appeals.**

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

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

For a period of 3 years after a license is revoked, the Director must not issue a bed and breakfast or short-term residential rental license to:

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



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**OFFICE OF THE CHAIR**

May 17, 2017

**TO:** The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

**FROM:** Montgomery County Planning Board

**SUBJECT:** Zoning Text Amendment No. 16-03

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 16-03 at its regular meeting on May 11, 2017. By a vote of 4:0 (Commissioner Dreyfuss absent), the Planning Board provides the following comments on the text amendment to amend the definition and development standards of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. The Board believes that, generally, the short-term rental use of residential property should be regulated separately from a Bed and Breakfast use, thereby maintaining the “spirit” of the current Bed and Breakfast use and its definition (to be allowed only in an owner-occupied detached house), including many of the existing use standards. 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. After examining written and verbal testimony, the Planning Board also recommends that short term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per year (90) only if the “host” will not be present during the rental period but believes that a limit on the maximum number of days is not necessary when the host remains in the home during the Short-Term Residential Rental stay. The Board was persuaded that many of the potential nuisances feared by certain residents can be minimized when the primary resident remains on-site during the short-term rental stay. The Board also recommends that all short-term rentals be monitored and licensed by the County and suggests that the Council consider appointing one agency to oversee both short and long term residential rentals to make it easier for the public to know who to contact should problems arise. The Board also suggests an enforcement measure that would suspend a host’s Short-Term Residential Rental license if at least three verified complaints against that host have been received within a calendar year. The Board further recommends that the property owner or tenant who “hosts” the short-term rental of the unit must be the primary resident of the home. The Board’s intent is to strike a balance, i.e. recognize the demand for short term residential rentals and the benefits such rentals provide to both hosts and renters without commercializing residential neighborhoods.



In February 2016, the County Council introduced proposed legislation (Zoning Text Amendment ZTA 16-03) to expand the Bed and Breakfast use to allow short-term residential rentals as limited uses in many zones. ZTA 16-03 was introduced in conjunction with Bill 2-16, which would update the licensing requirements for all transient housing, including a Bed and Breakfast. During its review of ZTA 16-03 on March 3, 2016, the Planning Board suggested a different approach to the ZTA, and proposed adding a new use to the Zoning Code instead of modifying the Bed and Breakfast use. The Planning Board also advised the Council that very little time had been provided obtaining community input on the issue. After holding a public hearing on ZTA 16-03 and Bill 2-16, the Council tabled the draft legislation and asked Planning Department staff to conduct public outreach and craft a new set of recommendations. The Council also directed the Planning Department to research best practices across the country while reaching out to County residents and stakeholders to provide opportunities for their input in establishing new regulations.

In response to the County Council's directive, the Planning Department technical staff held three community meetings at Planning Department Headquarters in 2016 (December 5, September 19 and July 18) to gather feedback on the draft ZTA. Staff also created a website devoted to the issue with an online comment board. Staff also received numerous emails from community members and stakeholders with differing opinions on Short-Term Residential Rental (STRRs). The concerns expressed were not unique to Montgomery County; the majority could be grouped into three categories: (1) negative impacts on residential neighborhoods, (2) decreased supply of affordable rental housing, and (3) unfair competition with the hotel industry. Staff also conducted research to determine how short-term residential rental (STRR) uses are regulated in other jurisdictions. Nationally, many jurisdictions have either enacted regulations related to this use or are in the process of crafting them (see attached technical staff report).

Our recommendations are intended to mitigate these concerns and strike a balance between recognizing the demand for STRRS while minimizing impacts on neighborhoods, the County's affordable housing supply, and the hotel industry. Attached to this transmittal letter are: written comments received concerning our staff's draft changes to ZTA 16-03; ZTA 16-03 as modified by the Board; and the technical staff report.

#### **CERTIFICATION**

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, May 11, 2017.

  
Casey Anderson  
Chair

CA:GR

Zoning Text Amendment No.: 16-03  
Concerning: Land Use – Bed and  
Breakfast & Accessory  
Residential Uses –  
Tenancy Duration

Draft No. & Date: ~~[[1]]~~<sub>2</sub> – ~~[[01/06/16]]~~  
04/27/17

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
- modify the definition of “Household Living”;
- define “Short-Term Residential Rental”;
- establish limited use standards for short-term residential rental; and
- generally allow the short-term residential rental of property that allows residential development

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”
Section 59-3.1.6.	“Use Table”
DIVISION 59.3.3	“Residential Uses
Section 59.3.3.3	“Accessory Residential Uses”
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:*

**Sec. 1. DIVISION 59.1.4 is amended as follows:**

Division 59.1.4 Defined Terms

\* \* \*

**Section 59.1.4.2 Specific Terms and Phrases Defined**

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

\* \* \*

**Shooting Range (Outdoor):** See Section 3.5.10.J.1

**Short-Term Residential Rental:** See Section 3.3.3.I

\* \* \*

14 **Sec. [[1]]2. DIVISION 59-3.1 is amended as follows:**

16 **Section 3.1.6. Use Table**

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[illegible]

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

**DIVISION 59.3.3. Residential Uses**

**Section 3.3.1. Household Living**

**A. Defined, In General**

Household Living means the residential occupancy of a dwelling unit by a household [on a monthly or longer basis] for 30 consecutive days or longer.

\* \* \*

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

\* \* \*

**I. Short-Term Residential Rental**

**1. Defined**

Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast.

**2. Use Standards**

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment.
- b. The applicant must provide proof that the home is his/her primary residence, regardless of dwelling unit type, by providing valid proof of home address as established by Executive Regulation under Method 2 of Chapter 2 (2A-15).
- c. Must comply with any Home Owner's Association or condominium document, or a rental lease.

- 48 d. The applicant must provide written proof that abutting and  
49 confronting neighbors, and where applicable, the municipality in  
50 which the residence is located, have been notified of the  
51 application for a Short-Term Residential Rental. In an apartment  
52 or condominium building, neighbors living across the hall and  
53 those that share a ceiling, floor, and walls with the applicant's  
54 unit must be notified.
- 55 e. If the applicant (primary resident) is not present in the residence,  
56 the property can be used as a Short-Term Residential Rental for a  
57 maximum of 90 days in a calendar year. If the applicant is  
58 present in the residence during the rental stay, there is no  
59 limitation on the number of days the property can be used as a  
60 Short-Term Residential Rental.
- 61 f. The use must be licensed under Chapter 54. Each license must be  
62 issued for a term of one year, renewable for additional one-year  
63 terms, subject to payment of the license fee and compliance with  
64 all applicable laws. The license must be suspended for any  
65 applicant receiving at least three verified complaints within a  
66 calendar year. Renewal or reinstatement of licenses must follow  
67 procedures established by the Director of the Department of  
68 Health and Human Services (HHS).
- 69 g. The maximum number of occupants is limited by Chapter 26  
70 (Sec. 26-5); however, the total number of overnight guests in the  
71 Short Term Residential Rental who are 18 years or older is  
72 limited to six, and the total number of overnight guests over 18  
73 years of age per bedroom is limited to two.

- h. A record of all overnight visitors must be maintained and readily available for inspection by HHS staff.
- i. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.
- j. Except for persons visiting the primary resident, only registered guests are allowed on the property.
- k. The applicant must post rules and regulations inside the rental, including contact information for a representative designated for emergency purposes. The designated representative must reside within 15 miles of the unit and be accessible for the entirety of any contract where the host is not present.
- l. A Short-Term Residential Rental must have working, accessible fire extinguishers, smoke detectors and, if applicable, carbon monoxide detectors.

**Sec. [[2]]4. DIVISION 59-3.5 is amended as follows:**

**Division 3.5. Commercial Uses**

**\* \* \***

**Section 3.5.6. Lodging**

**A. Defined, In General**

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

**B. Bed and Breakfast**

**1. Defined**

[[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.] a dwelling unit that is available for lodging. A Bed and Breakfast includes a dwelling unit that makes available the entire dwelling unit or any portion of the unit for rental periods. Meals may be provided to overnight guests when the provider satisfies the requirements of Chapter 15. II

Bed and Breakfast means a detached house that is owner-occupied with no more than 5 rooms for lodging. Meals may be provided to overnight guests when the provider satisfies the requirements of Chapter 15. A Bed and Breakfast is not a Short-Term Residential Rental.

## 2. Use Standards

a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:

i. A Bed and Breakfast is prohibited in a dwelling unit [that also provides guest rooms for roomers, or] in a Farm Tenant Dwelling, or on a site that includes an Accessory Apartment.

ii. [The display of a sign must include the official house number.]

[iii. Breakfast is the only meal that may be served and only to] [[The overnight guests on any night must satisfy the definition of one household.]]

[iv] A guest must only remain in a Bed and Breakfast for a maximum of [14] [[30]] 14 days in any one visit.

[v]iii. A record of all overnight visitors must be maintained.

[vi]iv. The Bed and Breakfast must be [registered with DPS] [[licensed under Chapter 54]] registered with DPS.

- [vii. 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.]
- v. 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.
- [viii. In the Agricultural, Rural Residential, and Residential 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.]
- vi. In the Agricultural, Rural Residential, and Residential 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.
- [vi. The dwelling unit must be the primary residence of the bed and breakfast licensee.]
- [ix]vii. In the Agricultural and Rural Residential zones, a Bed and Breakfast may be allowed in an accessory building designated as historic on the Master Plan for Historic Preservation.
- [x]viii. [Parking must be located behind the front building line] [[On-site parking that satisfies the property's zoning is required.]] Parking must be located behind the front building line.

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

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

- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than primary residential standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.
- ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
- iii. Screening under Division 6.5 is not required.
- iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.]

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

- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than primary residential standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.
- ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
- iii. Screening under Division 6.5 is not required.
- iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.

**Sec. [[3]]5. DIVISION 59-8.2 is amended as follows:**

**Division 8.2. Residential Floating Zones**

\* \* \*

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

- A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- B. The following Use Table identifies uses allowed in each zone. Uses may be 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>RESIDENTIAL</b>							
Accessory Residential Uses	3.3.3						
* * *							
<u>Short-Term</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>

<u>Residential Rental</u>							
* * *							
<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						
* * *							

202

203           **Sec. [[4]]6. DIVISION 59-8.3 is amended as follows:**

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

205       \*    \*    \*

206       **Section 8.3.2. PD Zone**

207       \*    \*    \*

208       **B.     Uses**

209           **1.     Residential Uses**

210       \*    \*    \*

211                   c.     Short-Term Residential Rental is allowed as a limited use under  
212                               Section 3.3.3.I.

213       \*    \*    \*

214           **2.     Commercial Uses**

215       \*    \*    \*

216                   [[d.   A Bed and Breakfast is allowed as a limited use under Section  
217                               3.5.6.B.]]

218       \*    \*    \*

219           **Sec. ~~[[5]]7. Effective date.~~** This ordinance becomes effective 20 days after  
220 the date of Council adoption.

221

222 This is a correct copy of Council action.

223

224

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

## Tettelbaum, Emily

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**To:** Russ, Gregory  
**Subject:** RE: Planning Staff's revised ZTA on Short Term Rentals

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**From:** Clinton Scott Jr [<mailto:cscott51@hotmail.com>]  
**Sent:** Sunday, April 30, 2017 8:59 AM  
**To:** Russ, Gregory <[gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org)>; Lillie R. Brown <[lillierbrown@hotmail.com](mailto:lillierbrown@hotmail.com)>;  
[finnegan20903@yahoo.com](mailto:finnegan20903@yahoo.com); Juanita Scott <[jscott501@hotmail.com](mailto:jscott501@hotmail.com)>  
**Subject:** Fw: Planning Staff's revised ZTA on Short Term Rentals

Good morning, Greg

Please see my attached email. I am forwarding you a copy for our upcoming May 11th meeting. If you have any questions or concerns, please reply back to this email.

Clinton Scott

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**From:** Clinton Scott Jr <[cscott51@hotmail.com](mailto:cscott51@hotmail.com)>  
**Sent:** Friday, April 7, 2017 4:39 PM  
**To:** HCA Board; Eileen Finnegan  
**Cc:** Lillie R. Brown; Sharon Bates; Gary Perry; Irma McNelia; Juanita Scott  
**Subject:** Re: Planning Staff's revised ZTA on Short Term Rentals

Eileen:

Thank you for sending the notification. Here are our concerns based on a cursory review of the proposed ZTA:

1. The proposed ZTA does not specify how long the property owner (i.e., Applicant) must reside on the premises. What the proposed ZTA says is this: "The applicant must provide proof that the home is his/her primary residence, regardless of dwelling unit type by providing valid proof of home address as established by Executive Regulation under Method 2 of Chapter 2 (2A-15). ***This definition lacks sufficient clarity.*** We recommend that if a dwelling is a primary residence, then the Hillandale Citizens Association and home owners in our community require all property owners of short-term rentals to physically reside at their primary residence at least 9 months out of the year. The proposed ZTA states properties can be used as short-term rentals not to exceed a maximum of 90 days (approximately 3 months) in a calendar year. Therefore, it is reasonable for communities to expect property owners to physically reside at the property for at least 9 months in a calendar year.
2. The proposed ZTA allows one off-street parking space for each rental contract. The proposed ZTA allows property owners to have a maximum of 6 overnight guests who are 18 years or older. If all overnight guests are unrelated to each other, this allows property owners to have up to 6 off-street parking spaces. **This is not**

acceptable because it encroaches on the number of off-street parking spaces available to traditional property owners. Therefore, it should be the responsibility of the property owner to designate parking spaces in their driveway or other parking spaces located on the property.

3. The proposed ZTA requires the Designated Agent to reside within 15 miles of the unit and be accessible for the entirety of any contract where the host (i.e., property owner) is not present. **This requirement does not go far enough. We believe the Designated Agent must reside on the premises of the property whenever the property owner does not reside on the property.**

Clinton and Juanita Scott

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## **Tettelbaum, Emily**

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**To:** Russ, Gregory  
**Subject:** RE: Short Term Rental Zoning Amendment

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**From:** steve & donna sacks [<mailto:clemonssacks@verizon.net>]  
**Sent:** Monday, April 10, 2017 10:24 AM  
**To:** Russ, Gregory <[gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org)>  
**Subject:** Short Term Rental Zoning Amendment

Mr. Russ,

I wish to register opposition to the proposed Short Term Rental amendment. My neighbors and I have had direct experience with another neighbor who in the past illegally utilized Air BnB over a period of several years and caused conflict among our neighbors. In this situation, the neighbor responded to a parking complaint by her clients on our Cul-de-sac, Henlopen Ct by summoning the MCPD on two other neighbors who had been parking commercial vehicles over an extended period. This eventually resulted in much ill will and one neighbor incurring almost \$20,000 and a complicated special permit regime to extend his driveway. We have also had experience with longer term rentals causing major disruption to the peace and quiet of the neighborhood and even introducing unwanted criminal conduct by renters.

I am aware that the proposed amendment requires off street parking. However, my spouse and I are also opposed to short term rentals because Henlopen Ct is within a couple hundred feet of an elementary school, Glen Haven and such rentals could provide easy access to predators who could pose a risk to children.

I have owned property here since 1993. I purchased my residence based on the knowledge that the zoning regulations offered me and my neighbors protection from various nuisances. I am concerned that short term rentals are another threat to our peace and quiet and my spouse and I respectfully oppose this amendment.

Steve Sacks  
10904 Henlopen Court  
Silver Spring, MD 20902  
301-649-1939  
[clemonssacks@verizon.net](mailto:clemonssacks@verizon.net)

**Tettelbaum, Emily**

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**To:** Russ, Gregory  
**Subject:** RE: Short term rentals ZTA

-----Original Message-----

From: Amy R [mailto:arr20814@gmail.com]  
Sent: Monday, May 01, 2017 1:41 PM  
To: Russ, Gregory <gregory.russ@montgomeryplanning.org>  
Subject: Short term rentals ZTA

Please cease and desist from over-regulating our private homes in Montgomery County. It is apparent that the County is simply looking for additional ways to add to the coffers. If you want us to register that is fine but please stop your intrusion into my private property right there.

There are already statutes in place that govern noise, trash etc. We all want to remain good neighbors and have no interest in antagonizing adjacent property owners.

Any elected official who votes for the proposed amendment will not have my vote the next election.

Amy Ross  
4411 Maple Avenue  
Bethesda 20814

Sent from my iPhone

## **Tettelbaum, Emily**

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**To:** Russ, Gregory  
**Subject:** RE: Written testimony- Zoning Text Amendment No. 17-XX

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**From:** Lucy Wilson [<mailto:lwilson@avenel.net>]  
**Sent:** Tuesday, May 02, 2017 12:38 PM  
**To:** Russ, Gregory <[gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org)>  
**Subject:** Written testimony- Zoning Text Amendment No. 17-XX

Dear Mr. Russ:

I am writing to you on behalf of the Avenel Community Association, a community in Potomac/Bethesda comprised of 900 homes.

We very much appreciate the time and effort that has been expended on the issue of short term rentals in Montgomery County and the opportunity for public comment.

Avenel's governing documents prohibit all short-term rentals (less than 90 days) and in no event, shall a transient tenant be accommodated in a dwelling. As such, Avenel supports Section 1 (c) of the Zoning Amendment that requires that an "applicant" for a Short-Term Rental must comply with any Homeowner's Association or condominium document, or rental lease. These restrictions on short-term rentals are in place for a variety of reasons, including, the protection of property values, and preserving the residential character of communities, particularly those that are a non-destination vacation type location. Thank you for recognizing the importance of an Association's Governing Documents, the duty of the Board of Directors to enforce its Governing Documents, and proposing an amendment that preserves the integrity and priority of an Association's Governing Documents - documents that owners agree to and rely upon when they choose to live in a community bound by established Covenants, Rules and Regulations.

If I may suggest, for your consideration, an additional requirement of the applicant that would require that in their application to the County for Short Term Rental, they "certify" that they are in compliance with the Association's Governing Document.

Thank you again for the work of your department in addressing this important matter.

I respectfully request that this communication be included as written testimony in the public record.

Sincerely

Lucy P. Wilson

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Lucy P. Wilson, CMCA, AMS  
General Manager  
Avenel Community Association  
Voted "Best Neighborhood in Potomac"  
Bethesda Magazine 2013  
9501 Beman Woods Way  
Potomac, Maryland 20854  
301-299-5916 phone  
301-299-7169 fax  
[www.Avenel.net](http://www.Avenel.net)

This email transmission may contain confidential or privileged information. If you receive this email message in error, notify the sender by email and delete the email without reading, copying or disclosing the email contents. The unauthorized use or dissemination of any confidential or privileged information contained in this email is prohibited. If you are not the intended recipient and intentionally intercept or forward this message to someone else, you may be subject to criminal and/or civil penalties.

**Tettelbaum, Emily**

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**To:** Russ, Gregory  
**Subject:** RE: zoning text amendment relating to airbnb rentals and other uses

-----Original Message-----

From: steven silverman [mailto:pianolawyer@outlook.com]  
Sent: Monday, May 08, 2017 4:23 PM  
To: Russ, Gregory <gregory.russ@montgomeryplanning.org>  
Subject: zoning text amendment relating to airbnb rentals and other uses

Gentlemen:

My wife and I live in Takoma park (7303 cedar avenue). We recently fixed up a separate-entry apartment in our home for rental purposes at considerable expense and have been renting it, sometimes through airbnb, during the past year. I have only just become aware of this proposed amendment. First, your means of providing public notice seems inadequate to me — I saw no announcements, statements in common media, etc. — , and I can find nothing at all explaining the reasons for this proposed amendment, what the record justifying this proposed amendment is, or any other source which would facilitate an ordinary person providing meaningful public comment. So I am forced to guess about all of these issues.

Second, this proposed amendment appears unnecessarily restrictive unless its sole purpose is to stamp out competition with other types of rentals. Why is there a proposed 90-day restriction on yearly rentals? What public health or other justification is there for this? Our apartment is already inspected annually for safety purposes (working smoke alarm, etc.) The annual licensing requirement also would be duplicative in our case, since there is an elaborate regulatory mechanism already in place in Takoma Park, including an annual licensing requirement. Have you stated anywhere why this duplication is necessary, and whether it serves any purpose other than being an undeclared additional tax?

I believe we are providing safe, convenient lower cost housing for people in an area which has no hotels or motels and so needs this service. I would like to see what the purpose of stamping this out is, other than to serve the commercial interests of other types of rentals. And in any case, I would like to be informed of where the justification of this proposal can be found in order to be able to comment more meaningfully.

Sincerely,

Steven Silverman

Elizabeth Heaney  
309 Hillmoor Drive  
Silver Spring, MD 20901  
301-928-7694

Montgomery County Planning Department  
Testimony Re: Zoning Amendment ZTA 16-03  
Sent via email

May 8, 2017

To Mr. Russ:

I write this letter to express my view that the Planning Board not approve ZTA 16-03 (the Amendment), for the reasons I outline below. In the event that the Board does approve the Amendment, I urge the Board to keep all the requirements in the Amendment; such requirements provide much-needed safeguards (though minimal, at best) from the inevitable detrimental effects short-term rentals will have on neighbors.

Last March, I provided oral and written testimony to the County Council on this issue. In that testimony, I detailed my family's experience of living next door to our neighbor's illegal Airbnb. For a six-month period in the Spring of 2015, my family was treated to a parade of strangers parking on the street in front of our house, walking across our yard, smoking on our property, dropping trash in the streets – all of these activities occurred during all hours of the day and night. Our daughters (aged 9 and 11 at the time) ceased playing in the front yard because they grew wary of the strangers who would walk across our yard to enter my neighbor's basement apartment. Because my husband and I did not know who was living next door, we no longer felt safe leaving our daughters at home alone. We seriously considered moving, but after talking to several local realtors, we were concerned that having a known active Airbnb rental next door would make our house difficult to sell.

The restrictions you have placed in the Amendment would not do anything to reduce the concerns outlined above. My daughters will still not know the strangers cutting across our yard to enter the basement apartment, and, not knowing who is next door, we will still feel unsafe in our home. Moreover, the

detrimental effect of an Airbnb on property value remains. Further, my neighbor's yard backs up to Pine Crest Park and School, where over 300 students play daily. I see nothing in the requirements that prevent transient rentals at properties located so close to a school.

I also attended two community meetings, where I learned about the other jurisdictions that the Board examined for guidance in writing the proposal. Once I saw this, I realized that the Board had completely ignored the question of *whether* to allow transient rentals and instead had started with *how* to regulate them. Such a process ignored the County's constituency, which has remained in the dark about this issue. When other local governments -- such as D.C. and Arlington -- grappled with regulating Airbnb rentals, the local news and the Washington Post covered that process and the governments' deliberations. In sharp contrast, the news has been silent on Montgomery County's consideration of this Amendment. I find this deceptive; the Council will consider a matter on which only a few citizens have expressed an opinion. The Council's silence speaks volumes; it will pass this Amendment irrespective of any opposition. Notably, the only reason the study provides for the Amendment is the proliferation of unregulated Airbnbs in the County. This is illogical. When illegal behavior becomes more prevalent, the answer is not to make such behavior legal; the answer is to enforce the existing law.

At the community meetings, I listened to citizens who operated Airbnb rentals from their homes discuss how such rentals saved them from dire financial circumstances. Such stories earned my sympathy, but did not render me blind to the fact that these citizens bettered their finances to the detriment of their surrounding neighbors' property value and in defiance of their neighbors' discomfort. Other Airbnb operators testified about the relationships they developed and enjoyed with their customers; again, the neighbors reap no such benefit.

The jurisdictions that the Board examined are, for the most part, large urban areas. The Board may argue that Silver Spring is such an area and is therefore a comparable environment. Not so. I invite the Board to walk down the tree-lined streets of Woodmoor, where I live. I invite the Board to see the dozens of children who play on my street running from yard to yard, the neighbors walking their dogs,

the baseball, soccer and lacrosse teams playing in the park. I then invite the Board to tell these neighbors all about Airbnb, and how, because Silver Spring is such an “urban area,” its citizens should expect or get used to such temporary rentals. I invite you to do this, because I can assure you that without exception, each neighbor will tell you that their house is their most important asset, and if they wanted to live next door to a hotel, they would move to an urban area. (After they first express absolute surprise that the Council is considering this, given the shocking lack of any wide-reaching *effective* communication to the citizenry on the matter.)

Notably, last week NBC News 4 ran a story detailing how its reporters uncovered a practice where Montgomery County property owners who live close to large, overcrowded high schools (where student parking is scarce) were renting out their driveways for students to park in during the school day. See <http://www.nbcwashington.com/investigations/High-School-Student-Parking-Spills-Onto-Streets-Driveways-in-Montgomery-County-421397513.html> When other neighbors learned of this practice, they were outraged and understandably raised safety concerns. If Montgomery County citizens were irate about temporary *driveway* rentals, chances are relatively high that they will be equally concerned about temporary *home* rentals. But of course, the citizens aren’t yet outraged, for the simple reason that they don’t know about the Amendment.

Should the Board recommend the Amendment, I urge the Board to keep in place all the requirements, particularly neighbor notification and off-street parking. I do urge the Board to consider adding a requirement that such rentals be located away from schools and public parks. Not including such requirements is inviting issues that can otherwise be avoided. Frankly, however, I urge each member of this Board to consider for one moment what it would be like to live next door to an Airbnb. It is not a minor inconvenience, and it will change the way you feel about your home and your neighborhood. I urge you to sympathize with my family and reject the Amendment outright.

Regards,

/s/Elizabeth Heaney

cc: Council Member Tom Hucker



### **Testimony regarding draft ZTA 16-03**

My name is Andy Leon Harney and I am the Village Manager of Section 3 of the Village of Chevy Chase. I have been asked to speak by our Council in opposition to the proposed ZTA as it is currently drafted. Over a year ago when the ZTA was first issued, staff of the Planning Board testified before the County Council where this ZTA originated, that it would be best to exclude zones R-60 and R-90. Since most of the objections that have been publicly voiced come from individuals who live in R-60 and R-90 zones, we are curious as to why the same staff has had a change in heart. If categorized as a limited use county-wide, it will definitely, as your own staff indicated over a year ago, "impact the character of existing residential neighborhoods."

The current ZTA, which limits short term rentals to 90 days per property, does not cure that problem. Down-county municipalities and unincorporated communities will be burdened because of their proximity to public transportation and DC tourist attractions and businesses. The ZTA specifically exempts Condo Associations and Homeowners Associations with by-laws that prohibit short-term rentals. It also exempts single family rental properties whose leases prohibit short term rentals. As a result, this places an undue burden on the rest of us in down-county communities. It creates a disparate impact on closer in, already densely populated neighborhoods.

Cities all over the country are struggling with how best to handle the new "sharing economy". Some hosts will certify that without this income, they could not survive in their homes. Others recount how many wonderful experiences they have had as hosts.

Some neighbors don't mind. Others complain about unknown strangers walking across their lawns at all hours of the day and night, parking in illegal spots, leaving beer bottles on the lawn and making noise. There is in fact, an entire website called [airbnhell.com](http://airbnhell.com)...I'm not kidding, Google it.

Taking a trip abroad, try an air bnb? Going to a resort? Try an air bnb. In our densely populated suburban neighborhoods close to metro, make sure you don't have too many of these because it has the potential of turning our communities into collections of hotel rooms filled with strangers who aren't interested in being part of our neighborhood. They just want a cheap clean place to sleep.

And we thought zoning was supposed to support neighborhoods not harm them!

When the county first decided to lift the restrictions on single family zoning by allowing accessory apartments in order to provide income for homeowners and less expensive housing in otherwise built-out neighborhoods, it carefully crafted licensing rules that would allow no more than one such use every 300 yards. The use comes with a whole catalog of licensing and inspection restrictions. The regulation and the spacing is key to the success of this relatively new use. No neighborhood is likely to be overrun with accessory apartments. However, many of those accessory apartment owners may opt to convert their units into short term rentals because they could make more money without the hassle of regulation. As to the 90 day restriction, the parking rules, the numbers of guests--- who is looking and who is counting? Are we pitting neighbor against neighbor to report possible abuses of the law? Why should a law put us in that awkward position?

We would like more control of what happens in our own communities. That is why we are incorporated. That is why we ask you to consider making short term rentals a conditional use and create some limitations as to how many licenses will be granted per square mile.

It is impossible to evaluate the full impact of the ZTA without seeing the accompanying bill that would govern the licensing. I understand from County officials that it won't be drafted until the ZTA is finalized. That seems almost as backward as passing a law that provides tax revenues for the County for short term rentals before passing a bill that authorizes them. As much as was wrong the first time this was introduced, at least we had a companion bill to better understand how it would be regulated. Some of the aspects of this ZTA actually belong in the bill regarding licensing.

At one of the community outreach meetings we were supposed to hear from County officials, as I understand it, who would be responsible for the enforcement of the ZTA and accompanying bill regarding licensing. But curiously, and without any explanation they did not show up. We have heard that the County's proposed budget for next year doesn't seek any additional personnel for inspections. So one can only assume from that that the rules governing this ZTA will be, as Ike Leggett has been told, "regulation light". But self-certification is no regulation.

If you rent out your home, you have to get lead paint inspections, you have to show that you have egress windows in the right places, fire alarms...all those public safety aspects that have a direct impact on an entire neighborhood if they are not in place. Yet the original regs for this ZTA don't require any inspections for licensing... and there is no way that anyone is counting to 90 for every home offering rooms for rent. We are relying on landlords to maintain honest records with no way to check if they are dishonest except a neighbor saying they thought there were people there for more than 90 days. Why are we relying on this kind of flimsy unsubstantiated data? The ZTA says unregistered guests should not be allowed. Who is going to know, since the homeowner doesn't even have to be there? Who is counting? Are we simply going to rely on the after-the-fact visit from the police when the party is broken up because it's disturbing the neighbors?

ZTAs and regulations should be written for the worst case scenarios. The worst case scenario allowed by this ZTA as it now stands is that everyone can have up to 6 adults and lots of kids (as long as there is enough room under a County housing standard no one will read) for as many as 90 nights...that's 540 people... How are the County and municipalities going to budget for the additional population we are allowing in our communities in terms of trash collection, recycling, etc.

True, 90 days is only a quarter of a year but for unhappy neighbors, that's a long long time. If some or only one of those nights at 3 or four different homes involves a call to the police for rowdy "guests", what does that do to the neighborhood? We already had testimony from someone in Bethesda who lives next door to a home purchased specifically for short term rentals...the owner doesn't live there ever, but in the absence of regulations and the blind eye by the County, she's cleaning up. And making the neighbors very unhappy too.

Since actions speak louder than words, it's clear that the motivation behind this ZTA is revenue for the County, which passed a law allowing them to collect room taxes for short term rentals before they had

a viable ZTA or licensing program in hand. Yet the County has only one agreement to bring in income--- with airbnb. What about all the other platforms that provide on-line rooms for rent in your community: hometogo.com, flipkey.com, homeaway.com, forrent.com, rentbyowner.com, corporatehousingbyowner.com, VRBO.com and of course, Craig's list which doesn't collect money but merely serves as a bulletin board for folks who don't want to be bothered with more elaborate platforms. We have no agreements with those organizations and they are not under any obligation to sign agreements with the County. Nor do we have any way of knowing if someone who signs up as a "host" is licensed in the County because none of those services provide lists of names and addresses of their hosts to anyone.

So, when these strangers come into your community, are they going to abide by the rules and regulations of your jurisdiction as regards parking? Disposal of trash? Recycling? If you have community amenities, are they going to be given guest passes by their landlords? If the landlord or homeowner had to be there, then perhaps it would be easier, but this ZTA only requires that a "representative of the landlord be within 15 miles of the property"....So if there is a problem, who has that name and number? The police, the tenant? The County agency responsible for licensing which is only open from 9 to 5 weekdays? How is this going to work in practical terms?

As it stands, this is a program characterized by phantom regulation, phantom oversight, phantom enforcement.

I ask that you reconsider the scope of this ZTA and consider making it a conditional use in the current equivalent of R-60 and R-90 zones, rework it so that items that should be in the bill regarding licensing and regulation are in a bill we can evaluate at the same time. As it stands now, it is NOT neighborhood friendly and we run the risk of making a mockery of single family zoning.

## Tettelbaum, Emily

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**To:** Russ, Gregory  
**Subject:** RE: Responding to Planning Board meeting -- short-term rentals

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**From:** Andrea Pearson [<mailto:andrea-pearson@hotmail.com>]  
**Sent:** Thursday, May 11, 2017 4:59 PM  
**To:** MCP-Chair <[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)>; Russ, Gregory <[gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org)>  
**Subject:** Responding to Planning Board meeting -- short-term rentals

Dear Planning Board,

I am watching the live video of your meeting and want to respond to the Board's dismissal of concerns about strangers in neighborhoods, which is one of safety. I was one of the people concerned about this issue, who spoke about it and other problems with a very active (i.e. disruptive) AirBnB in my densely populated neighborhood. I attended and spoke at two of the three public meetings held for this purpose. The particular AirBnB I talked about is a large house with two accessory apartments managed by a property owner who lives on the West coast. I am glad that the proposed legislation would require AirBnB owners to occupy their residences. That will take care of a lot of problems -- if the legislation is enforced.

My concern in response to today, about safety, comes from my car and my immediate neighbor's home having been broken into in the past year or two, the latter during the middle of the day. Transient residents such as AirBnB owners bring in make it harder to maintain a sense of neighborhood security, since one's sense of knowing when something unusual is going on is lessened. The idea of watching out for oneself and one's neighbors is crucial to community safety. That's why neighborhood watch groups are formed and why they work so well. With a very active AirBnB across from me, my ability to gauge the level of security around me has lessened.

I was offended that the Board did not take public safety as a serious concern in this matter. I could tell this crossed no one's mind. I wish I had been able to be present to respond.

Please write back, so that I know that this message was read and heard by the Board.

Andrea Pearson  
6618 Westmoreland Ave.  
Takoma Park  
[andrea-pearson@hotmail.com](mailto:andrea-pearson@hotmail.com)

## Testimony Opposing Planned Restrictions on Short-term Home Rentals

I have been a resident of Montgomery County since April of 1998. I worked in Washington DC in an International Organization and retired in 2012. During my working years I travelled often within and outside of the US. On every trip I stayed in hotels of various qualities.

Since my retirement I have traveled frequently for pleasure and in fact I now spend close to half of the time in a year traveling and living overseas. I'm currently in Cuenca Ecuador.

Over the last four years I have stayed almost exclusively in shared homes--close to 30 in about 18 countries including in the US. All of these stays have been arranged through AirBnB or VRBO. And the experience has been extraordinary and quite pleasant compared to what I endured during my business travels.

I also rent out my apartment in Ecuador when I come home to Rockville or when I am travelling. In fact, I would not be able to afford to travel and live a blissful retired life if there was no home sharing or if I were unable to rent my apartment in Ecuador when I travel. At the very least the short-term rentals of my Ecuador apartment pay for its upkeep.

My experience with home sharing and the issues surrounding its adoption by innumerable communities around the World have convinced me that the benefits of home sharing far outweigh the narrow concerns that stakeholders of alternative arrangements may have. What I have read so far there are tangible and measurable economic benefits as well as intangible socio-political benefits.

### Tangible Economic Benefits of Home-Sharing (aka short-term renting)

AirBnB, a pioneer in introducing the World to home-sharing through its web platform of the same name, conducted a series of studies in different cities around the World to gauge the impact of home sharing. A summary of the findings can be viewed at <https://www.airbnb.com/economic-impact>.

Even without this study it is easy to interpolate from other studies about travel and tourism that certain economic benefits are real. For instance:

1. Home-sharing brings tax dollars to the municipalities which can be used to improve local government services to the community.
2. Home-sharing brings dollars to local businesses. Visitors do not lock themselves up in their rental homes. They go out and spend money in restaurants, cafes, and grocery stores.
3. Income from home-sharing can often mitigate the effects of economic hard-times for low-income retirees and residents who are underemployed or between jobs. Home-sharing can help make ends meet.
4. In addition to the direct benefits listed above there are indirect benefits, such as increased sales taxes on local goods and services bought by visitors and by local residents whose incomes go up. Further, because of an overall economic improvement of financially at-risk members of the community the local government can save precious dollars that it may otherwise need to support them.

### Intangible Socio-political Benefits

1. In today's World of sharp divisions and paranoia, home sharing brings people of diverse backgrounds and outlooks together and in so doing it fosters appreciation of diversity and an understanding of the "other".
2. Given the wide range of cost of lodging from zero (yes, young folks can stay free at people's homes via a website called Couch Surfing) to a few hundred or even thousand dollars, home sharing has made it easy for people to travel and expand their horizon. I am reminded of the high-school teacher in Istanbul who rented out his two bedroom apartment to us and went and stayed with a friend so that he could save some money for his own travels.
3. Home-sharing offers a different set of travel experiences--AirBnB calls it "to live like a local". I recall the neighborhood Tapas place in Seville Spain away from the tourist hangouts, where the waitresses were all over us, serving us free food because it is infrequent that people from overseas come there for a meal.

Montgomery County is home to people from different nations and diverse backgrounds. It is an open community as it is also an international community. Let's keep it that way; like it is in Istanbul, Seville, New York, San Francisco and all the other great communities in the World that have made it easier for people of all means to come and visit them and appreciate their hospitality.

Muhammad Shahbaz Khan  
Rockville, MD 20850  
301-675-5167

May, 10<sup>th</sup> 2017



**Section 5**  
**of the Village of Chevy Chase**  
**P.O. Box 15140, Chevy Chase, Md. 20815**  
**301-986-5481; Fax 301-986-6920**  
**e-mail [manager@chevychasesection5.org](mailto:manager@chevychasesection5.org)**  
**website [www.chevychasesection5.org](http://www.chevychasesection5.org)**

May 10, 2017

Mr. Casey Anderson  
Chair, Montgomery County Planning Board  
8787 Georgia Avenue – 2<sup>nd</sup> Floor  
Silver Spring, Maryland 20910

Chairman Anderson:

We are writing in response to the proposed new rules for short-term rentals in Montgomery County. At this time, we do not broadly oppose this type of rental in an R-60 or R-90 zone, but we do have serious misgivings about the County's ability to successfully track, regulate, and enforce these types of rentals. Given these reservations, we urge you to reconsider this proposal, and allow individual municipalities the ability to "opt out" of these regulations in the same way a condo and homeowners association might. By giving municipalities a choice, you allow the different communities to have a voice in the matter and choose what is best for them. It also provides a safeguard for communities if these rentals prove troublesome.

Thank you for your consideration.

The Town Council  
Section 5 of the Village of Chevy Chase

**Tettelbaum, Emily**

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**From:** MCP-Chair  
**Sent:** Thursday, May 11, 2017 11:55 AM  
**To:** Krasnow, Rose  
**Subject:** CRM: FW: short term rental

-----Original Message-----

From: Bob Schwartz [mailto:rsarch01@aol.com]  
Sent: Wednesday, May 10, 2017 5:10 PM  
To: MCP-Chair <mcp-chair@mncppc-mc.org>  
Subject: short term rental

My wife and I spend 2 months in the summer and 2 months in the winter with each of our daughters. While we haven't lately due to my wife's health we have done that in the past and hope to do it again. We did short term rentals for both those times to help cover the cost of our trips. We'd like to have the option to continue doing that in the future. For that reason I would like the board to up the total allowable days to 125 per year. That would cover four months not 3 as the 90 days allows. Thank you, Robert Schwartz, 7913 Kentbury Drive, Bethesda, MD



## **Tettelbaum, Emily**

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**From:** MCP-Chair  
**Sent:** Thursday, May 11, 2017 11:56 AM  
**To:** Krasnow, Rose  
**Subject:** CRM FW: Short term property rentals in Montgomery County/ Zoning Text Amendment 16-03".

**From:** nancymgross@gmail.com [mailto:nancymgross@gmail.com] **On Behalf Of** Nancy Gross  
**Sent:** Wednesday, May 10, 2017 3:42 PM  
**To:** MCP-Chair <mcp-chair@mncppc-mc.org>  
**Subject:** Short term property rentals in Montgomery County/ Zoning Text Amendment 16-03".

Dear Mr. Anderson,

I am submitting this email as testimony in regards to the regulation of short term property rentals in Montgomery County. My husband and I live in Bethesda on a quiet cul de sac in a house (that we designed and built) worth somewhere in the \$2.5 to \$3 million dollar range. It is a large four bedroom house on 1.67 acres of land. Our children are grown and out of the house, and we have successfully been renting our Bethesda home on Airbnb for about two years. It started out when we were going to be away for two weeks, and gradually, as our kids left, we have opened up our calendar more and more. We charge in the neighborhood of \$500/night for our house, with a three night minimum. I would say upwards of 75%, of the people who rent our house are a family with adult children, who are gathering from around the country (sometimes from around the world), who are coming to the DC area for a wedding, graduation, or milestone birthday. We have had very few minor children in the groups, and absolutely zero "events" at our home. We do not approve a rental for something even so tame as a baby shower, 40th birthday dinner, "small" wedding, video or photo shoot, etc. We vet each person who wants to rent our home so as to protect and preserve our largest asset. The point I want to make to you is, renting our private home, on our property, is in no way infringing on my suburban neighbors. Don't make the mistake of copying regulations that are from a densely populated urban district. A limit of six people and 90 rentals days is arbitrary and has no basis in the capacity of any given home or the impact my renting my home has on my neighbors (absolutely zero). The capacity of a rental should have some basis in the number of bedrooms or sleeping areas (in the case of a studio). Why should we be subject to the exact same rules as someone renting out their studio apartment in downtown Bethesda, Rockville or Silver Spring (or Arlington Virginia)??? Our situations are completely different. Why 90 nights? I am a legal resident of Montgomery County and the state of Maryland if I live in my home for six months or more. That's 180 days. Why should I not be able to rent my house out for four months, or five months, or six months - not that this is what is happening. We take short term rentals. We have never had anyone stay more than 11 days, and that family was from London, here in Bethesda visiting family, and they are coming back again this summer. Most people stay for about 4 nights. We had no rentals at all in February and March of this year, but 21 nights in April. Airbnb is collecting and remitting occupancy tax on our behalf. So while it is unlikely we would get 150 nights of rentals over the course of the year, I certainly would find it ridiculous and an infringement of my property rights to limit the number of nights we rent our home to 90. Montgomery County, unlike Arlington Virginia or even Washington DC, is a large and varied county, and it is just not possible for one set of rules to apply to all possible short term rentals, urban, suburban or rural. Please do not make the mistake of applying the most stringent criteria to all of us. Short term rentals in a home make it possible for families to share space and make memories together in a way that is affordable to them, in a way that having to rent multiple hotel rooms does not. Thank you for your attention and consideration to this important matter.

Nancy and Mark Gross  
5647 Bent Branch Road  
Bethesda MD 20816  
202-841-2393  
[nancy@nancygross.com](mailto:nancy@nancygross.com)

**NetChoice** *Promoting Convenience, Choice, and Commerce on The Net*

Carl Szabo, Senior Policy Counsel  
1401 K St NW, Suite 502  
Washington, DC 20005  
202-420-7485  
[www.netchoice.org](http://www.netchoice.org)



Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, 20910

May 11, 2017

**RE: Request for amendments to Zoning Text Amendment Regarding Transient Housing Licensing and Registration Draft No 1-2/23/17**

Dear Boardmembers,

As counsel to a trade association focused on economic innovation and as a Rockville home-owner, I ask you to amend for Zoning Text Amendment Regarding Transient Housing Licensing and Registration Draft No 1-2/23/17 (hereinafter ZTA-2/23/17). We support the licensing and registration approach of ZTA-2/23/17, however, without amendments, it's effectiveness is substantially limited, and potentially unconstitutional.

Short term rentals (STR) will provide economic flexibility to the residents of Bethesda, Gaithersburg, Germantown, Olney and everywhere else in the county.

At the same time, we ask that the Board amend ZTA-2/23/17 to give all Montgomery County homeowners the right to obtain home-sharing licenses, by removing the requirements for: (1) provision of guaranteed off-street parking, (2) proof of neighbor notification, (3) limitation to only 90 days a year, and (4) mandatory disclosure of visitor records.

With our central location close to the historic cities of Washington and Baltimore, Montgomery County has consistently maintained a vibrant real estate market and a robust business travel and tourist economy.

The convergence of high home prices, rising real estate taxes, and visitor demand makes Montgomery County an ideal locale for home-sharing. It's a great way for homeowners to earn additional revenue by sharing their properties occasionally. Nationwide, home-sharing has enabled homeowners to offset costs of ownership. And it provides travelers with additional lodging choices that could be more convenient and cost effective than hotels.

Home-sharing services provide much-needed extra income to hundreds of your constituents. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income that hosts earn through home-sharing is used to cover household expenses.

Consider, for example, families taking their children to NIH or those coming into town to meet with companies along the I-270 Tech Corridor. By amending ZTA-2/23/17, these visitors have additional options to stay in Montgomery County neighborhoods and residents have additional ways to supplement their income. At the same time, visitors spend money with Montgomery County businesses and contribute to Montgomery County tax revenue.

Through these amendments, ZTA-2/23/17 would represent a thoughtful approach to home-sharing by creating a registration process used by other cities across the country and would benefit all Montgomery County residents.

Registration fees paid by home owners would offset costs. The county would enjoy easier oversight, compliance, and tax collection. Registration would also ensure the home-sharing boon to homeowners and visitors also benefits non-participating residents through revenue collection that is funneled back into the local economy and Montgomery County projects.

We ask that you amend ZTA-2/23/17 in the following ways:

1. *Remove the requirements for guaranteed off-street parking as it disproportionately impacts families that lack private driveways or private parking spaces.*

As you know, many homes in Montgomery County do not have private driveways or registered parking spaces. Keeping this requirement would ensure that many of these families are handicapped in their ability to earn additional income through STRs.

2. *Remove the requirement for proof of neighbor notification as it could lead to intra-neighborhood conflicts.*

Many of us live in Montgomery County because of the kind nature of its residents. However, forcing neighbors to confront each other in a potentially adversarial manner threatens civility in Montgomery County.

3. *Remove or extend to at least 180 days, the limitation of STR activity to only 90 days a year.*

The 90-day requirement is arbitrarily short. One of the wonderful things about Montgomery County is the diversity of families – so of whom live in the state for only part of the year. Consider a family that travels to their home country for a couple of months, the 90-day limitation would suppress their ability to earn additional income for themselves, and the county.

4. *Remove the privacy invasive requirement for mandatory disclosure of visitor records to the government.*

We are surprised that Montgomery County would forgo privacy protections and suggest that visitor records be disclosed to the government. This could expose the privacy of county residents and visitors using the platform.

The hotel industry has successfully defeated such forced disclosure efforts in court. When the city of Los Angeles demanded a hotel's visitor records, the hotel industry fought back in court – ultimately winning at the US Supreme Court (*see In re Patel*, 576 U. S. \_\_\_\_ (2015)). To protect this court ruling, we could see the hotel industry opposing ZTA-2/23/17. And if ZTA-2/23/17 is adopted, Montgomery County would likely see a similar court outcome.

With these amendments, we believe ZTA-2/23/17 will enable homeowner associations to enforce existing rules and the freedom to decide whether to increase monitoring and reporting of non-compliant permit holders – choices which are best left to those residents to determine what is right for their local communities.

Moreover, it will address the complaints about home-sharing comes in the form of anecdotal stories about public nuisances. New laws or ordinances are not necessary to deal with neighborhood or nuisance issues. As for any nuisance issue, whether caused by the property owner, a friend staying over, or home-sharing visitors, existing laws address the problem.

We ask that you embrace home-sharing and take the logical step to legalize and license this practice. We ask that you allow your constituents the right to share their homes and earn extra money.

So, we ask that you amend ZTA-2/23/17 so that all Montgomery County homeowners and residents get the chance to enjoy the benefits of the home-sharing economy.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Szabo".

Carl Szabo  
Senior Policy Counsel, NetChoice

*NetChoice is a trade association of e-Commerce and online businesses. [www.netchoice.org](http://www.netchoice.org)*

## **Greater Colesville Citizens Association**

PO Box 4087  
Colesville, MD 20914  
May 11, 2017

Montgomery County Planning Board  
Attn; Casey Anderson, Chair  
8787 Georgia Ave  
Silver Spring MD 20910

Re: ZTA 16-03 Short Term Residential Rental (STRR).

Dear Chairman Anderson and Planning Board Members:

The Greater Colesville Citizens Association (GCCA) has been following the issue of the short-term rental of rooms or houses. GCCA agrees with staff that the approach to this problem is to create an entirely new use called Short Term Residential Rental and not attempt to modify the existing regulations dealing with Bed and Breakfast rentals. GCCA agrees with the staff recommendations, except for the modification of some points, as follows:

1. Fourth bullet dealing with notification. In addition to notifying the abutting and confronting neighbors, the applicant should provide written proof that they also contacted the local homeowners association and citizens association for single family and townhouse properties. For Condo rentals, the notification should be to the building management and neighbors on the hall.
2. Tenth bullet. The name and phone numbers of any designated representative need to be provided to those identified in the Fourth bullet and any time that representative changes notification needs to also occur. This will provide community with a contact person who can undertake corrective action if problems occur.
3. Eighth bullet dealing with parking. The proposal is to only require one parking space per contract. If there is one contract for the entire house and there are six guests, then there could be six vehicles. That would result in on-street parking for five vehicles. In Colesville, a house was rented and renters come in five vehicles, many from different states. Parking is often a problem in many areas so adding five vehicles could result in a serious parking problem for other residents. The number of vehicles needs to be limited to the total of the number of off-street parking spaces for the aggregate of all contracts.

Thank you for considering our recommendations:

Sincerely,

Dan Wilhelm  
GCCA President



**Tamarack Triangle Civic Association  
Silver Spring, Maryland**

May 10, 2017

Mr. Gregory Russ  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Mr. Russ:

The Tamarack Triangle Civic Association respectfully submits the following comments regarding the draft ZTA for Short Term Residential Rentals (STRR) as proposed by the Planning Department staff. We concur with the majority of the "Use Standards" in the draft ZTA but ask that the following suggestions be seriously considered,

In reference to Item "d" in the Use Standards, we suggest that following addition in the language (in *Italics*) of the standard.

d. The applicant must provide written proof that abutting and confronting neighbors, *Homeowners Associations and Civic Associations* have been notified of the application for a Short-Term Residential Rental. In an apartment or condominium building, *Building Management and Condominium Association*, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit must be notified.

Regarding Item "i" of the Use Standards, we provide the following comments.

i. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited. *(Per Item "g" of the proposed Use Standards, the possibility of the number of cars parked could be as high as 6 as there is a upper limit of six (6) rooms implied that can be short-term leased as implied by the limit of 6 adults to whom rooms may be leased. This would place a burden for neighbors in the smaller lot residential zones on their streets - especially those with only on-street parking allowed or there are no other locations available to have the necessary off-street parking, unless it is implied that communities with on-street parking ONLY cannot utilize STRR, therefore a limit on the number of rooms that can be rented should be set for areas zoned for smaller lots and consideration for a limited on-street parking for renters considered.)*

The Tamarack Triangle Civic Association is submitting these suggestions to have the county ensures through the proposed STRR policy that our communities stay safe and minimize discourse raised amongst neighbors through current loopholes in the proposed ZTA that could possibly be leveraged.

Sincerely,

Peter Myo Khin  
Tamarack Triangle Civic Association  
Silver Spring, MD  
pmyokhin@verizon.net

My name is David Hubbard. My wife, Marcie and I are artists. We have lived in a free standing home only blocks from MNCPPC since 1984. We raised two children and once they went out on their own we had two spare bedrooms. I've had an art installation and sculpture restoration business for 35 years, until about 2008 when I started to turn away clients and limit my work due to arthritis in my back. I had a severely broken ankle in 2015, Cancer surgery and chemo in 2016 and have since retired. We started doing airbnb to bring in some extra income as airbnb makes it convenient for people to let out extra rooms. At first we did it just for the money, but with all the guests we've had we actually enjoy their company and its not so much like a business as having friends in our house. We take the time to help them out, giving them rides to the grocery store, information, and directions about the local scene. Most of them are happy that they stayed with us. Over the years we made it no secret that we do this and our neighbors know. No one has ever complained or said anything about it. Although we do let out room for short term, the majority of the clients that stay with us currently are doctors who come in for the Radiology program at AFI which means they stay for a month. They are very respectful. Most of them walk to the AFI from our house and they go to the library and study most of the time in the evenings. The county is paid their 7% tax by airbnb. I've heard there is some plan to restrict the length of stay in people's private homes to 14 days. This seems to me like an arbitrary disruption to our ability to airbnb, probably designed to pander to the hotel industry, who, no doubt, put lots of money into local politics and the local economy. Without airbnb, my wife and I may not be able to continue to live here due to exorbitant cost of living and high property taxes. Maybe a more useful restriction if there has to be one would be to follow DC's lead and not allow people to buy houses and use them for airbnb when they don't live in the house. I could understand that. My last thought is that although the hotel industry probably has a lot of influence in the political system, we have voted in every election for the last 40 years, never missing one. We do not vote against our own best interest.

David Hubbard  
1507 Ballard St.  
S.S., Md. 20910



## Testimony regarding Short term rentals in Montgomery County

My husband and I have been airbnb hosts since 2014. We've lived in our Woodside home since 1984. We raised our two children here. The income we make from renting our room is helping us with the high cost of living here in Montgomery County. We pay our state, federal taxes, and the hotel tax is paid.

My husband retired March 2016 from his 30 year art installation and sculpture conservation business. He's had health issues since January 2015 making him unable to work (broke his leg 2015; and 2016 diagnosed w/duodenal cancer, surgery in July 2016, chemo Sept 2017 - Feb 2017. Now recovering from surgery and chemo.)

I am a teaching artist and visual artist. I work in the community, teaching in art centers, and teaching seniors and individuals with special needs. The teaching is rewarding, but I don't make that much money! We need the additional airbnb income to live here in Montgomery County.

We are renting rooms in our home, while we are here at home. If, for some reason we are away (for a day or couple days, as I am planning to teach a workshop out of state, later this year) then one of our sons would be available to help the guest. I always ask guests for an emergency phone number, as we care about them, and if anything happened, or we were worried about them, we could contact someone. We give them our sons' phone numbers. The company Airbnb has been responsive and helpful in the past, when we've needed them for any reason. The benefit to listing with airbnb is that there is some assurance that we have protection if there is a problem and we are not on our own.

We operate as a shared household (share the kitchen, laundry, living room, dining room with guests) so that they can make themselves at home. Our experience has been very positive. We especially have been happy to host Radiologists attending the AIRP 4 week course (American Institute for Radiologic Pathology intensive course is at the AFI theater.)The Radiologists are quiet, they study most of the time, and are very respectful. They frequent the Silver Spring businesses and restaurants, helping our economy.

I am requesting that Montgomery County make an exception for the 14 day requirement, as the Radiologists usually stay 26-28 days (less than one month) and the MC ordinance would outlaw this. Also, I'm requesting an exception for hosts who live in the home.

Our neighbors are aware that we have airbnb guests and we have never had any complaint from them. Our neighbors' response has been positive. Another

neighbor who lives alone inquired about doing airbnb herself, as her children have moved out, and she could use help with her expenses.

We aim to give our guests a great experience in our home and our community. Here are a few comments from our guests.

Thank you for your consideration.

Marcie Wolf-Hubbard  
1507 Ballard ST, Silver Spring, MD 20910

###

"Marcie & David made me feel very welcome. They offered me food & coffee etc... They supplied me with a map of the local area with plenty of recommendations for places to go and local food places to try. The house was beautifully decorated and they made me feel very much at home. The area felt very safe, even walking around at night; ...Just what I was looking for, friendly and easy-going. There is a lot of beautiful art in and around the house created by Marcie&David; ...very generous hosts. ...welcomed us warmly, oriented us to their neighborhood...Throughout our stay they created the perfect mix of privacy and helpfulness; incredibly nice, helpful; Overall, it's a great value proposition - considering quality of accommodation and proximity to metro and downtown silver spring; Marcie and David are the best!!!! They are sweet, welcoming, easy going and just overall wonderful people. I felt as if I was at home, not a guest. I left with new friends in my life. :-); Welcoming hosts; every one was great! The location was perfect, easy walk to downtown, shops, restaurants and metro. I hope to see you all again! Marcie and her family were so wonderful! Truly appreciate their hospitality. Marcie and Family are all very cool, artistic, laid back and helpful. Paintings everywhere. Room was comfortable, they were very respectful of my need for space during my time there as I was on a training, Marcie gave me a lift to the station when leaving. 5 stars! Highly recommended :) ...I was going to DC/Silver Spring MD for a floral class. I arrived at 7pm to a lovely house in an equally lovely neighborhood. The lawn was sprinkled with interesting plants and magnificent sculptures. Inside the home was filled with luscious green plants and tons of the gorgeous encaustic wax art of Marcie's. I was met by Marcie whom that night drove me to the grocery store. She did not have to do that. The next three days were peaceful, magical and truly soulful. this is a home of fine arts and music. I would come home tired from class to hear the beautiful lull of David's music. One day I was invited to sit in his music studio. He played some of his band songs for me and we talked music and art. It was fantastic. The house was clean. The bathroom I used was very clean and comfortable. All the

essentials you may need are there. The room was charming and clean with a very comfortable memory foam mattress, crisp sheets and hand painted window shades that put me in a very chill space. Everyone and everything in this house is art. Filled with art and an energy that is hard to come by these days I would recommend this listing to all creative, kind, and respectful souls. Marcie and David are treasures and I am sure they will be friends for life.

As always great hospitality...Looking forward for a next time. A second home. I had a very relaxing stay in Silver Spring and that was completely due to Marcie and her family. Marcie's son was there when I arrived and he is very social and helped me get settled. Later on, I met Marcie and her husband and they felt like friends rather than hosts. The house is located near the downtown center and it is lovely decorated with art works. The room has everything you need and the bed is very comfortable.

...awesome and welcoming hosts, always ready to help me organize the practical aspects of my stay.

...Marcie and Dave are one of the most welcoming people I have met. I enjoyed our conversations and learning about art. It felt like visiting a friend rather than renting a room.

## **Tettelbaum, Emily**

---

**To:** Russ, Gregory  
**Subject:** RE: Comments re: proposed ZTA short-term residential rentals

**From:** Debra Bodner [<mailto:dmgb5817@gmail.com>]  
**Sent:** Wednesday, May 10, 2017 1:36 PM  
**To:** Russ, Gregory <[gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org)>  
**Subject:** Comments re: proposed ZTA short-term residential rentals

May 10, 2017

Subject: Zoning Text Amendment No.: 17-XX Concerning: Accessory Residential  
Uses – Tenancy Duration

To Whom It May Concern:

As county residents we have a number of specific comments regarding the proposed ZTA rule on short term residential rentals:

- Item 2 e: 90 day maximum in a calendar year. This seems completely arbitrary and capricious. Why not 60 or 120 days? If there is a basis /rationale for this number it should be provided. The County should have a compelling justification for any maximum (or minimum) number of days.
- Item 2 f: licenses. We are concerned that this will grow to be a) a cumbersome, bureaucratic process, and b) that it is being proposed simply as a money-making venture for the County. If there will be state or local taxation of any kind, that should replace any license fee. It should be one or the other (or neither).
- Item 2 h: Visitor Record. This seems unnecessary and intrusive, and none of the County's business. However, Airbnb technology could facilitate this. But what would the County do with this information and what possible justification could the County have for collecting it? Again, there should be a compelling reason for the County to require, collect, and inspect this information.

- Item 2 i: off street parking. This is also burdensome and unnecessary in this day and age. Many, if not most, travelers use alternate means of transportation including taxis, ride sharing, and public transportation. As long as there is a way to obtain temporary parking permits, for which processes do exist, this should not be required.
- Item J: Registered Guests. Again, the registration seems unnecessary and must be tied to a legitimate County requirement for the information.
- Item k: This seems unnecessary, relative to Airbnb: there always is a point of contact and emergency information is merely a phone call or text away. This also is intrusive to the Host/property owner, requiring them to either stay home, or not 'rent' their property at times they may be away.

Finally, some general points:

The use of Airbnb by travelers has a definite, extensive, positive impact on the local business community surrounding the 'Host' locations. Just like at hotels, every single guest literally has to eat out, and usually that tends to occur proximate to the Airbnb location.

Host and Guest interactions foster community, international exchange, peace, and opportunities for collaboration far beyond a simple hotel-like transaction. These traits are directly in keeping with local government missions and interests, very much like sister city initiatives elsewhere in the State and County. It would be unwise, mean-spirited, short-sighted, and financially imprudent to overly restrict the home-sharing economy and the many positive opportunities that it brings to the County.

For Airbnb situations in owner-occupied dwellings, many of the proposed rules clearly do not or should not apply. It appears the County's first instinct is to take a heavy handed, bureaucratic, 'one size fits all' approach to a modern, technologically driven and far more nuanced environment. In this day and age, and in this County, the ability clearly exists to think through and parse the variety of situations that may occur and develop far more thoughtful rules and regulations than so far have been promulgated. For these reasons we strongly urge the County to rethink these proposed rules.

Adam and Debra Bodner

7125 Carroll Avenue

Takoma Park, MD 20912

Eileen Finnegan  
Silver Spring, Maryland  
Comments to the Montgomery County Planning Board  
On Item 8: Park and Planning's Rewritten ZTA 17-XX/ZTA 16-03,  
Short-Term Residential Rental (STRR) and Bed and Breakfast Code  
May 11, 2017

As a resident of an older R-90, single family residential area, I offer the following input:

Regarding the Staff's proposed STRR legislation, please consider:

- **Add an Initial Inspection:** Requiring a STRR facility be inspected for Chapter 26 living standards, should be incorporated into this legislation. This initial inspection will ensure that the facility meets the standards for tax-paying guests and safeguard the community. The cost of the inspection should be in addition to the first license fee collected.
- **Prohibit STRRs in Accessory Apartments:** I agree that STRRs should not be in Accessory Apartments, and underscore that an inspection process will ensure that second dwelling units are not misused in the County. DHCA Code Enforcement should be responsible for enforcement of the "not in an Accessory Apartment" provision.
- **Stipulate Details in Written Notice to Neighbors:** Written notice must provide all the information including limitations of the STRR license, so neighbors are fully informed.
- **Reduce the Number of Guests:** A flat number of six adults, and/ or two per room is too open for misuse. The number of guests and persons per bedroom should be specified at time of inspection. The County standard of five unrelated adults should pertain to STRRs.
- **Require On-Site Parking:** Please require sufficient off-street parking in single-family zones for all guests with vehicles.
- **Require Confirmation of 90 Days/Year Limit:** This is a seemingly simple restriction, but I question the practical enforcement. To make this limit more realistic, add a reporting requirement to the process requiring the licensee to provide the County with a filing of their required register annually. If possible, this information should be corroborated with the booking platform's tax remittances confirming the income stream desired by the County.
- If 90 days/year provision is not agreed by the Planning Board, please require the owner be on-site for all STRR rentals.
- **Clarify Enforcement by DPS:** Staff's memo indicates that enforcement would be under the Zoning Code, which places prime responsibility upon the Department of Permitting Services. Will this cover all violations? No license? In an Accessory Apartment? Sleeping rooms without egress? Please have DPS provide their interpretation of their enforcement responsibilities.

Regarding the revisions to the Bed and Breakfast Code, please add a provision that DHCA do an inspection in addition to the Health Department (kitchen) inspection currently done. In a past experience, despite a DPS inspection and a Health Department inspection, a registered bed and breakfast facility in my neighborhood was renting an unsafe basement suite. The sleeping areas did not have egress from basement windows. It was a pleasant, yet very unsafe facility.

Thank you.



## Maryland Hotel Lodging Association

20 Ridgely Ave., STE 309, Annapolis, MD 21401

Phone: 410-974-4472

Email: [mhla@MDLodging.org](mailto:mhla@MDLodging.org)

Web: [www.MDLodging.org](http://www.MDLodging.org)

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TO: Members of the Montgomery County Planning Board

FROM: Amy Rohrer, Maryland Hotel Lodging Association

RE: Zoning Text Amendment No. 17-XX

POSITION: SUPPORT

As the statewide trade association representing hotels across the state and in Montgomery County, we support Zoning Text Amendment No. 17-XX.

We welcome new players to the accommodations industry when commonsense rules and regulations are in place, abided by, and enforced. It is important to point out that regulations may vary among hotels, traditional B&Bs, and short-term residential lodging, but all of it is a business activity that should be regulated in a way that makes sense for business owners, guests, and communities. Currently, the playing field is quite skewed as short-term residential lodging is taking place and growing exponentially, with no oversight or regulations in place in Montgomery County.

We support the proposed zoning amendment for the primary reasons below:

**1) The primary residence requirement and 90 day cap ensure the activity is truly home sharing.**

- From a competitive standpoint, we are especially concerned by the growth of what are essentially unlicensed hotels. A study from Penn State University<sup>1</sup> indicates many users of Airbnb have moved well past sharing and are engaged in commercial or investment activity. Specifically, the study shows that a significant portion of Airbnb's revenue is driven by hosts that are either multiple-unit operators renting two or more units, or full-time operators who rent their unit(s) 360 or more days per year. These commercial hosts account for nearly 40 percent of Airbnb's fee revenue.

**2) Licensing by the Department of Health and Human Services and related requirements will help to ensure the safety of guests, integrity of communities, and compliance with existing or future rules/regulations.**

- Common sense safety requirements include fire extinguishers, smoke detectors, carbon monoxide alarms, keeping record of overnight visitors, and listing a designated emergency contact within 15 miles of the unit.
- Parking provisions, compliance with HOA/condo rules, neighbor notification and setting a maximum number of occupants per unit will help to protect the integrity of the community for residents and neighboring businesses.

We urge the Planning Board to approve this Zoning Text Amendment. We view it as a step toward addressing what is technically an “illegal” activity that is legitimized by the collection of hotel tax by the County through a system that lacks transparency and accountability - a situation that is quite disconcerting to hotels accountable for operating within the law.

Thank you for your consideration.

For further information, contact:

Amy Rohrer  
President & CEO  
Maryland Hotel Lodging Association

<sup>1</sup> From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb  
([https://www.ahla.com/sites/default/files/Airbnb\\_Analysis\\_Oct\\_2016\\_0.pdf](https://www.ahla.com/sites/default/files/Airbnb_Analysis_Oct_2016_0.pdf))



## **Tettelbaum, Emily**

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**To:** MCP-Chair  
**Subject:** RE: FW: Home Sharing restrictions

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**From:** Freiburg, Debbie [<mailto:DFREIBUR@childrensnational.org>]

**Sent:** Tuesday, May 09, 2017 5:23 PM

**To:** MCP-Chair <[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)>

**Subject:** Home Sharing restrictions

I became a host for Airbnb about 2 years ago. I will give you my reasons why I do it but more importantly why this home sharing concept is so important.

Two years ago, my niece that was born and raised in a small mid-western town received an internship in Dallas. Texas. Her family has limited resources and extremely poor. I stepped in to help my niece find a place to live in Dallas for 60 days. I began calling friends, apartment rentals and even hotels and there was not a place I could find for her to live for 60 days except for a hotel that was an astronomical price. Airbnb was new to me but we heard about it and we were able to find safe and affordable housing for a young girl just out of high school.

I met the host and was impressed with her the people that she had hosted at her house.

At the time, I was living in a 3 bedroom house and living alone. I decided to give it a try. I have made lasting friends and have met people from all over the world. I live in the home and share all common areas of the house. Yes, I have made a small profit but more, I have helped pharmacy students, nursing students, Radiologist and PhD students find a safe and happy place to live during an internship.

I will not be able to attract anyone for an internship nor could any of these kids find a short term rental during their time in the DC area. I fear that internships may be compromised, my niece would not have been able to afford a short term FURNISHED apartment or a hotel and would have had to turn down the important internship that fueled her future.

Debbie Freiburg  
9920 Rogart Road  
Silver Spring, Md  
20901

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# ***Calverton Citizens Association***

***P. O. Box 21***

**Beltsville, Maryland 20704-0021**

May 9, 2017

Honorable Casey Anderson, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Zoning Text Amendment 16-03

Dear Honorable Anderson,

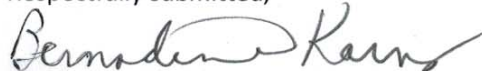
Calverton is 53 years old and the community has seen many changes to housing codes that have affected our single-family homes. There are multiple "family" members living in our single-family houses that impact our property values. There is an impact on our property values from the multiple vehicles parked on our narrow, unsafe streets as the result of the multiple "family" members living in our single-family houses. We understand that some people need help with staying in the house. But, the new Zoning Text Amendment 16-03 is not the way to go.

Calverton really does not see that short-term rentals will work in an established community with narrow streets. We feel that short-term rentals need to be planned for in new developments. When you convert a possible rental for a college student or a visiting scientist to a short-term rental, this does not improve the community. The short-term rental only hurts the community, the neighbors and the property values of all the houses in the community. Please do not vote in favor of Zoning Text Amendment 16-03

Calverton really has a hard time with this amendment. So, we hope that if the planning board does pass it that you consider some of the following points:

- 1) The owner of the house needs to live in the whole house and only rent 1 or 2 rooms.
- 2) The owner should not live in just room and rent out all the other rooms.
- 3) Who is going to guarantee that our Calverton community will not be permanently harmed when the amendment is approved? There needs to be a Department of Short-Term Residential Rentals that ensures that all requirements are met and that all complaints are investigated.
- 4) The Department of Short-Term Residential Rentals needs to respond to complaints quickly and in a timely manner. It should be more responsive than 311 is to calls.
- 5) Parking should not be in the back of the house. Remember, this is a neighborhood and neighbors do not like to see backyards turned into parking lots and parking lots do not increase property values.
- 6) This is a good opportunity to include short-term rentals in the Viva White Oak development project and other new projects in the county.

Respectfully submitted,



Bernadine (Bernie) Karns, Calverton Citizens Association  
3005 Gazebo Court  
Silver Spring, MD 20904  
301-572-8018



**(ZTA 16-03) Bed & Breakfast Standards & Accessory Residential Uses – Tenancy Duration**

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- ☐ Gregory Russ, Planner Coordinator, FP&P, [gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org), 301-495-2174
- ☐ Emily Tettelbaum, Senior Planner, Area 2, [emily.tettelbaum@montgomeryplanning.org](mailto:emily.tettelbaum@montgomeryplanning.org), 301-495-4569
- ☐ Pam Dunn, Chief, FP&P, [pamela.dunn@montgomeryplanning.org](mailto:pamela.dunn@montgomeryplanning.org), 301-650-5649

Completed: 5/4/17

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**Description**

Zoning Text Amendment (ZTA) 16-03, as introduced, sought 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. The underlying reason was to expand the opportunities for short-term tenancy in the County. 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. As discussed in more detail in the analysis below, staff recommends a different approach to addressing the issue of short-term tenancy in a manner that attempts to balance the demand for this use while minimizing its impacts to neighborhoods.

**Summary**

Staff provides the following comments on ZTA No. 16-03 that was attended 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. Staff believes that, generally, the short-term rental or use of residential property should be regulated separately 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. 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 year (90), and be monitored and licensed by the County. Staff further recommends that the property owner or tenant who “hosts” the short-term rental of the unit must be the primary resident of the home. Staff’s intent is to strike a balance:

recognizing the demand for short term residential rentals without commercializing residential neighborhoods.

Staff recommends that the Bed and Breakfast standards generally revert to the current provisions (Pre-ZTA 16-03). Attachment 3 depicts a draft ZTA that staff would support reflecting a new use called *Short-Term Residential Rental (STRR)*.

## Background

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, with Montgomery County having an estimated 1,078 short-term rental listings<sup>1</sup>. This increased activity has led the Montgomery County Council to work toward modifying short-term rental laws, and prompted an examination of parameters to regulate short-term rentals and establish a pathway to legalize this activity. The County Council enacted a bill in May 2015 (Expedited Bill 14-15) that requires short-term renters to pay the same tax required of hotel guests (7%). Currently, the County's Zoning Ordinance does not allow for short-term residential rentals of less than one month, unless the home has been approved for use as a Bed and Breakfast. Bed and Breakfasts are only allowed in detached houses, are subject to specific standards, and require conditional use approval in some zones (e.g. R-60 and R-90). Rental of a home, or part of a home, for a month or more is allowed by-right in all zones where residential uses are allowed; occupancy of a dwelling unit is limited to a "household" as defined in the Zoning Ordinance (up to five unrelated people). The landlord/host is required to register with the County.

In February 2016, the County Council introduced proposed legislation (Zoning Text Amendment ZTA 16-03) to expand the *Bed and Breakfast* use to allow short-term residential rentals as limited uses in many zones. ZTA 16-03 was introduced in conjunction with Bill 2-16, which would update the licensing requirements for all transient housing, including a bed and breakfast. During its review of ZTA 16-03 on March 3, 2016, the Planning Board suggested a different approach to the ZTA, and proposed adding a new use to the Zoning Code instead of modifying the *Bed and Breakfast* use (Attachment 1). The Planning Board also advised the Council that very little time was provided for the community to discuss the issue. After holding a public hearing on ZTA 16-03 and Bill 2-16, the Council tabled the draft legislation and asked Planning Department Staff to conduct public outreach and craft a new set of recommendations. The Council also directed the Planning Department to research best practices across the country while reaching out to County residents and stakeholders to provide opportunities for their input in establishing new regulations.

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<sup>1</sup> As reported by Host Compliance.

## Other Jurisdictions

Staff conducted internet research to determine how short-term residential rental (STRR) uses are regulated in other jurisdictions. Nationally, many jurisdictions have enacted regulations, or are in the process of crafting them. A report commissioned by the City of Asheville in 2014 provides a comprehensive guide to relevant regulations and policy solutions<sup>2</sup>. The report includes a matrix with components from short-term rental ordinances in several US cities that was used as a basis for crafting the Staff recommendations.:

	Ocean Isle Beach, NC	Telluride, CO	Charleston, SC	Savannah, GA (proposed)	Portland, OR	Austin, TX	Blowing Rock, NC	Cornelius, NC
<b>Bans</b>								
Complete ban								
Ban/allow in certain areas			✓	✓		✓	✓	
"Free pass" for popular event weeks								
STRs must be owner-occupied					✓	**		
<b>Caps</b>								
Cap on number of STRs			✓					
Cap on percentage of homes used as STRs						✓		
Cap on number of nights rented in a time period		✓						✓
<b>Registration/Permitting</b>								
Registration Required		✓	✓	✓	✓	✓	✓	✓
Fee required				✓	✓	✓	✓	
Inspection required					✓	✓		✓
Occupancy and/or other taxes required	✓	✓	✓	✓	✓	✓		
Consequences for complaints filed?				✓	✓	✓	✓	
<b>Additional Requirements</b>								
Parking requirements			✓	✓	✓	✓	✓	
Trash/recycling requirements		✓				✓		
Emergency access requirements								
Mandatory Designated Representative		✓		✓		✓		
Postings inside units				✓	✓	✓		
Minimum stay								
Maximum occupancy			✓	✓				
Notification of neighbors					✓	✓		

\*\*Austin does not ban non-owner-occupied rentals, but it does enforce more stringent regulations on these.

<sup>2</sup> <https://www.scribd.com/doc/250599355/Study-on-short-term-rentals>

Counties have been slower to adopt STTR regulations although Talbot County<sup>3</sup> and Garrett County<sup>4</sup> (Maryland) have short term residential rental regulations in place. Closer to DC, Arlington County has recently enacted regulations that became effective on December 31, 2016<sup>5</sup>. The use in Arlington County is categorized as a home occupation called *accessory homestay* with the following standards:

- Allowed in units used by the owner or a renter as his/her primary residence (the resident of the dwelling occupies the unit at least 185 days of the year)
- May use the entire home, including accessory dwellings
- May host the larger of either six lodgers, or two lodgers per number of bedrooms in the unit per night.
- Will not be allowed in detached accessory buildings
- Smoke detectors and fire extinguishers, and where applicable, carbon monoxide detectors, must be provided and accessible to all overnight lodgers
- Does not authorize use of the home for any other commercial use such as parties, banquets, weddings, meetings, charitable fund raising, commercial or advertising activities or any other gatherings for direct or indirect compensation

In January, a Councilmember introduced new legislation to establish a regulatory framework for local home-sharing in the District of Columbia. Currently, DC law requires that hosts have a basic business license and, depending on the property's zone, an additional license. Fairfax County, Prince George's County, and the City of Alexandria have not introduced any relevant legislation.

A bill related to short-term residential rentals has been introduced in the Maryland State legislature,<sup>6</sup> but to date, no action has been taken on the bill.

### **Community Outreach/ Feedback**

The Planning Department held three community meetings at Planning Department Headquarters in 2016 (December 5, September 19 and July 18) to gather feedback on the draft ZTA. Staff also created a website devoted to the issue with an online comment board. Staff also received numerous emails from community members and stakeholders with differing opinions on STRRs.

Several hosts attended the community meetings and described their experiences with Airbnb and other similar hosting platforms. Hosts described the lodging they provide for students and researchers at NIH

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<sup>3</sup><http://www.talbotcountymd.gov/uploads/File/PlanningPermits/PZ/Applications/Short%20Term%20Rental%20Application.pdf>

<sup>4</sup> <https://www.garrettcounty.org/planning-land-development/transient-vacation-rental-units>

<sup>5</sup> <https://projects.arlingtonva.us/plans-studies/land-use/zoning-studies/short-term-residential-rentals/>

<sup>6</sup><http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&stab=02&id=sb0463&tab=subject3&ys=2017RS>

and FDA, and for attendees of a four-week radiology course held five times per year at the AFI in Silver Spring. Staff also received many emails in favor of allowing short term residential rentals in the County. According to proponents, STRRs are beneficial because they:

- Allow residents to earn extra income and increase housing affordability as part of the sharing economy,
- Benefit small businesses,
- Generate business for areas not usually visited by tourists,
- Provide affordable, comfortable places to stay,
- Allow visitors to get local knowledge from area residents,
- Provide enriching experience for hosts and guests, and
- Make it more affordable to age in place.

Many community meeting attendees had concerns about various aspects of STRRs, and Staff received several emails and letters expressing opposition to allowing STRRS in the County. Some residents and other stakeholders are concerned that STRRS will:

- Create nuisances (noise, traffic, underage drinking, litter, public urination, drugs, and other illegal activities),
- Bring an influx of strangers to the neighborhood on a regular basis,
- Diminish property values (loss of tax revenue),
- Be unsafe because they do not meet fire and safety standards, and hosts are not equipped to respond to emergencies,
- Destabilize and disrupt community by driving out long-term residents,
- Compete with accessory apartments and reduce the availability of affordable housing, especially if hosts are allowed to have multiple listings,
- Be an enforcement problem,
- Turn into party houses,
- Create parking problems,
- Be overconcentrated in unincorporated areas of the County because municipalities (and Home Owner's Associations) can regulate STRRs more stringently than the County,
- Have a competitive advantage over hotels because STRRs do not currently have to comply with regulations.

The concerns expressed are not unique to Montgomery County; similar concerns are faced by communities worldwide that are struggling with STRRs regulation. The majority of concerns related to STRRs can be grouped into three categories: (1) negative impacts on residential neighborhoods, (2) decreased supply of affordable rental housing, and (3) unfair competition with hotel industry. Staff recommendations are intended to mitigate these concerns and strike a balance between recognizing the demand for STRRS while minimizing impacts on neighborhoods, the County's affordable housing supply, and the hotel industry.

## Recommendation

Staff posted the draft ZTA recommendations (found in Attachment 2) online on April 6. In the meantime, Planning Staff met with Council Staff and legal counsel to discuss the recommendations, and made some relatively minor modifications to the previously posted recommendations (Attachment 3). Council Staff believes that some of the provisions in the draft text amendment should go in Chapter 54, Transient Lodging. Chapter 54 is outside the purview of the Planning Department, and would include regulations dealing with licensing and enforcement of STRRs. Planning Staff have no objection to putting some of the recommended provisions in Chapter 54 and will continue to work with Council Staff on specific language in ZTA 16-03 and associated Bill 2-16.

### Short Term Residential Rental

Planning Staff recommends that a new use called *Short Term Residential Rental* be added to the use table in Chapter 59 (the Zoning Ordinance) under the *Accessory Residential Use* category (Attachment 3). The use would be defined as follows:

*Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short Term Residential Rental is not a bed and breakfast.*

An STRR would be allowed as a limited use in all zones that permit residential development. To address the concerns expressed about STRRs, Staff recommends the following key use standards:

- Prohibit STRRs on properties that include an accessory apartment. Staff believes that accessory apartments are an important component of the County's affordable housing stock and should be used for long term rentals rather than STRRs.
- Require that the home be the primary residence of the host to prevent commercial enterprises with multiple home listings. The host would have to prove primary residence through documentation. This requirement should help level the playing field with the hotel industry and prevent conversions of residential property to STRRs.
- Require that the STRR comply with any HOA or condo association document, or a rental lease. The onus would be on the applicant to make this determination.
- Require that an applicant notify all abutting and confronting neighbors about the application for an STRR license.
- Limit the use of a property as an STRR to 90 days per calendar year (rentals of 30 days or longer would not be counted toward the 90-day maximum for an STRR). This provision would prevent the use of a room/home as a year-round STRR. San Francisco's law has a similar limitation if the host is not present.
- Limit the total number of overnight guests per STRR (over 18 years old) to six and the total number of overnight guests per bedroom to two. This is similar to the recently passed legislation in Arlington County.
- Require the host to maintain a list of all overnight visitors.



- Require one off-street parking space per rental contract unless the online listing indicates that vehicle parking is prohibited.
- Allow only registered guests on the property to prevent parties, events, etc. that would be disruptive to residential neighborhoods.
- Require the host to provide contact information for a designated representative that resides within 15 miles of the property and that is available to deal with emergencies if the host is not present.
- Require the home to have working, accessible fire extinguishers, smoke detectors, and where appropriate, carbon monoxide detectors.

Staff also recommends clarifying in this ZTA that *Household Living* means residential occupancy of a dwelling unit by a household for “30 days or more” rather than the more ambiguous phrase, “monthly or longer basis.”

As previously discussed, the licensing process is not under the purview of the zoning code, but Staff recommends STRR licensing through a self-certification process. Self-certification processes have been implemented in Arlington County and Talbot County.

### **Enforcement**

Enforcement of STRR laws emerged as a primary concern of residents throughout the outreach process. As discussed earlier in this report, enforcement of STRR conditions stated in the Zoning Code would be enforced like any other zoning requirement. Enforcement of STRR conditions required under Chapter 54 would be enforced as stated in there.

Staff has researched enforcement mechanisms for STRRs and recommends that the Council consider specific conditions for revocation of an STRR license. Arlington County, for example, allows the Zoning Administrator to revoke a license if:

1. there are three or more violations recorded or substantiated complaints received by the County within a one year period;
2. the host does not comply with any regulations or permit conditions: or
3. the host refuses to cooperate with the County in a complaint investigation, including allowing the Zoning Administrator or his/her designee to enter the dwelling unit upon reasonable advanced notice.

Consideration should also be given to contracting with one of the businesses that assists local governments with monitoring and enforcement of STRR laws. STRR license fees and taxes could offset the cost. Services offered include:

- Monitoring across different STRR platforms for zoning and permit compliance,
- Pro-active outreach to non-permitted and/or illegal rental operators, and
- Tax collection support services.

## **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 rules, and prompted an examination of parameters to regulate short-term rentals and established a pathway to legalize this activity. ZTA 16-03, as introduced, 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 limited use - *Short-Term Residential Rental*) thereby maintaining the integrity of the Bed and Breakfast use standards and definition. Staff recommends that the Bed and Breakfast standards remain generally unchanged from the current provisions.

## **Attachments**

1. Planning Board recommendation (3/8/16) and Original Staff report on ZTA 16-03 (3/3/2016)
2. Simplified draft ZTA posted online 4/6/2017
3. Staff recommended changes to ZTA 16-03

## **ATTACHMENT 1**



### **MONTGOMERY COUNTY PLANNING BOARD** THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

#### **OFFICE OF THE CHAIR**

March 8, 2016

**TO:** The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

**FROM:** Montgomery County Planning Board

**SUBJECT:** Zoning Text Amendment No. 16-03

#### **BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 16-03 at our regular meeting on March 3, 2016. By a vote of 4:0 (Commissioner Dreyfuss absent from the room), the Planning Board provides the following comments on the text amendment to amend the definition and development standards of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. The Board understands that ZTA 16-03 is attempting to regulate new short term tenancies such as Airbnb, but believes that very little opportunity was provided for the community to discuss potential mitigating measures associated with permitting short term residential rental in all zones as a limited use, including: occupancy limits (number of persons per bedroom, for example), parking requirements, and liability insurance. Should the County Council decide to move forward with this legislation at this time, the Board believes that the approach suggested in the technical staff report would be a better starting point.


The technical staff report states that the short term rental of residential property should not be regulated as a Bed and Breakfast use, but as an accessory residential use. This would allow the “spirit” of the current Bed and Breakfast definition, which allows the use 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) to be maintained. Technical staff also believes that the current requirement for a bed and breakfast to obtain conditional use approval in the smaller lot R-90 and R-60 zones is a good one and 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. The technical staff report 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: accommodating the demand for short term tenancy of residential property without commercializing residential neighborhoods.

The technical staff report further recommends that the Bed and Breakfast standards remain as currently provides (Pre-ZTA 16-03), recognizing, however, that these standards may be in need of some updating.

### **CERTIFICATION**

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, March 3, 2016.



Casey Anderson  
Chair

CA:GR



## 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:*

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

\* \* \*

**Section 3.1.6. Use Table**

The following Use Table identifies uses allowed in each zone. Uses may be 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	CRT	
* * *	COMMERCIAL	* * *																* * *
* * *																		
LODGING	<u>3.5.6</u>																	
Bed and Breakfast	<u>3.5.6.B</u>		L	L	L	L	[C] L	[C] L	L	L	L	L	L	L	L	L	L	L
Hotel, Motel	<u>3.5.6.C</u>															P	P	
* * *																		
Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed																		
* * *																		

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

**Division 3.5. Commercial Uses**

\* \* \*

**Section 3.5.6. Lodging**

**A. Defined, In General**

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

**B. Bed and Breakfast**

**1. Defined**

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.] a dwelling unit that is available for lodging. A Bed and Breakfast includes a dwelling unit that makes available the entire dwelling unit or any portion of the unit for rental periods. Meals may be provided to overnight guests when the provider satisfies the requirements of Chapter 15.

**2. Use Standards**

- a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:
  - i. A Bed and Breakfast is prohibited in a dwelling unit [that also provides guest rooms for roomers, or] in a Farm Tenant Dwelling, or on a site that includes an Accessory Apartment.
  - ii. [The display of a sign must include the official house number.]
  - iii. Breakfast is the only meal that may be served and only to] The overnight guests on any night must satisfy the definition of one household.
  - iv]iii. A guest must only remain in a Bed and Breakfast for a maximum of [14] 30 days in any one visit.
  - v]iv. A record of all overnight visitors must be maintained.
  - vi]v. The Bed and Breakfast must be [registered with DPS] licensed under Chapter 54.
  - vii. 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.]

[viii. In the Agricultural, Rural Residential, and Residential 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.]

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

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

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

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

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

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

traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.

- ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
- iii. Screening under Division 6.5 is not required.
- iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.]

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

**Division 8.2. Residential Floating Zones**

\* \* \*

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

- A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- B. The following Use Table identifies uses allowed in each zone. Uses may be 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						
* * *							

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

**Division 8.3. Planned Unit Development Zones**

\* \* \*

**Section 8.3.2. PD Zone**

\* \* \*

**B. Uses**

\* \* \*

**2. Commercial Uses**

\* \* \*

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

\* \* \*

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

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



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:

**Sec. 1. DIVISION 59.1.4 is amended as follows:**

Division 59.1.4 Defined Terms

\* \* \*

**Section 59.1.4.2 Specific Terms and Phrases Defined**

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

\* \* \*

**Shooting Range (Outdoor):** See Section 3.5.10.J.1

**Short-Term Tenancy:** See Section 3.3.3.I

\* \* \*

**Sec. 2. DIVISION 59.3.1 is amended as follows:**

Division 59.3.1. Use Table

\* \* \*

**Section 59.3.1.6. Use Table**

The following Use Table identifies uses allowed in each zone. Uses may be

modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definition s and Standards	Ag	Rural Residential				Residential												Commercial/ Residential			Employment				Industrial		
							Residential Detached								Residential Townhouse			Residenti al Multi- Unit										
			AR	R	RC	RNC	RE- 2	RE- 2C	RE -1	R- 200	R- 90	R- 60	R- 40	TLD	TMD	THD	R- 30	R- 20	R- 10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
RESIDENTIAL																												
ACCESSORY RESIDENTIAL USES	3.3.3.																											
<u>Short-Term Tenancy</u>	<u>3.3.3.I</u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>		

\* \* \*

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

**DIVISION 59.3.3. Residential Uses**

\* \* \*

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

\* \* \*

**I. Short-Term Tenancy**

**1. Defined**

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

**2. Use Standards**

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

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

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

**Division 8.2. Residential Floating Zones**

\* \* \*

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

- A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- B. The following Use Table identifies uses allowed in each zone. Uses may be 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>
* * *							

**Sec. 5. DIVISION 59-8.3 is amended as follows:****Division 8.3. Planned Unit Development Zones**

\* \* \*

**Section 8.3.2. PD Zone**

\* \* \*

**B. Uses**

\* \* \*

**1. Residential Uses**

\* \* \*

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

\* \* \*

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

65 This is a correct copy of Council action.

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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.

- 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.

- 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.

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>

## ATTACHMENT 2

Zoning Text Amendment No.: 17-XX  
Concerning: Accessory Residential  
Uses – Tenancy Duration  
Draft No. & Date: 1 – 2/23/17  
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:

- modify the definition of “Household Living”;
- define “Short-Term Residential Rental”;
- establish limited use standards for short-term residential rental; 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:



**Sec. 1. DIVISION 59.1.4 is amended as follows:**

Division 59.1.4 Defined Terms

\* \* \*

**Section 59.1.4.2 Specific Terms and Phrases Defined**

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

\* \* \*

**Shooting Range (Outdoor):** See Section 3.5.10.J.1

**Short-Term Residential Rental:** See Section 3.3.3.I

\* \* \*

**Sec. 2. DIVISION 59.3.1 is amended as follows:**

Division 59.3.1. Use Table

\* \* \*

**Section 59.3.1.6. Use Table**

The following Use Table identifies uses allowed in each zone. Uses may be

modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definition s and Standards	Ag	Rural Residential				Residential												Commercial/ Residential			Employment				Industrial		
							Residential Detached								Residential Townhouse			Residenti al Multi- Unit										
			AR	R	RC	RNC	RE- 2	RE- 2C	RE -1	R- 200	R- 90	R- 60	R- 40	TLD	TMD	THD	R- 30	R- 20	R- 10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
RESIDENTIAL																												
ACCESSORY RESIDENTIAL USES	3.3.3.																											
<u>Short-Term Residential Rental</u>	<u>3.3.3.I</u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>	<u>  </u>		

\* \* \*

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

**DIVISION 59.3.3. Residential Uses**

**Section 3.3.1. Household Living**

**A. Defined, In General**

Household Living means the residential occupancy of a dwelling unit by a household [on a monthly or longer basis] for 30 consecutive days or longer.

\* \* \*

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

\* \* \*

**I. Short-Term Residential Rental**

**1. Defined**

Short-Term Residential Rental means the residential occupancy of a dwelling unit for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast.

**2. Use Standards**

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment.
- b. The applicant must provide proof that the home is his/her primary residence, regardless of dwelling unit type, by providing valid proof of home address as established by Executive Regulation under Method 2 of Chapter 2 (2A-15).
- c. Must comply with any Home Owner's Association or condominium document, or a rental lease.

- d. The applicant must provide written proof that abutting and confronting neighbors have been notified of the application for a Short-Term Residential Rental. In an apartment or condominium building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit must be notified.
- e. The property can be used as a Short-Term Residential Rental a maximum of 90 days in a calendar year.
- f. The use must be licensed under Chapter 54. Each license must be issued for a term of one year, renewable for additional one-year terms, subject to payment of the license fee and compliance with all applicable laws. Renewal of licenses must follow procedures established by the Director of the Department of Health and Human Services (HHS).
- g. The maximum number of occupants is limited by Chapter 26 (Sec. 26-5); however, the total number of overnight guests in the Short Term Residential Rental who are 18 years or older is limited to six, and the total number of overnight guests over 18 years of age per bedroom is limited to two.
- h. A record of all overnight visitors must be maintained and readily available for inspection by HHS staff.
- i. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.
- j. Except for persons visiting the primary resident, only registered guests are allowed on the property.

k. The applicant must post rules and regulations inside the rental, including contact information for a representative designated for emergency purposes. The designated representative must reside within 15 miles of the unit and be accessible for the entirety of any contract where the host is not present.

l. A Short-Term Residential Rental must have working, accessible fire extinguishers, smoke detectors and, if applicable, carbon monoxide detectors.

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

**Division 8.2. Residential Floating Zones**

\* \* \*

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

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

B. The following Use Table identifies uses allowed in each zone. Uses may be 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
* * *							
Accessory Residential Uses	3.3.3						
* * *							
<u>Short-Term Residential Rental</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>
* * *							

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

**Division 8.3. Planned Unit Development Zones**

\* \* \*

**Section 8.3.2. PD Zone**

\* \* \*

**B. Uses**

91 \* \* \*

92 **1. Residential Uses**

93 \* \* \*

94 c. Short-Term Residential Rental is allowed as a limited use under  
95 Section 3.3.3.I.

96 \* \* \*

97

98

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

101

102 This is a correct copy of Council action.

103

104 \_\_\_\_\_

105 Linda M. Lauer, Clerk of the Council

# ATTACHMENT 3

Zoning Text Amendment No.: 16-03

Concerning: Land Use – Bed and  
Breakfast & Accessory  
Residential Uses –  
Tenancy Duration

Draft No. & Date: [[1]]2 – [[01/06/16]]  
04/27/17

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
- modify the definition of “Household Living”;
- define “Short-Term Residential Rental”;
- establish limited use standards for short-term residential rental; and
- generally allow the short-term residential rental of property that allows residential development

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”
Section 59-3.1.6.	“Use Table”
DIVISION 59.3.3	“Residential Uses
Section 59.3.3.3	“Accessory Residential Uses”
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:*

**Sec. 1. DIVISION 59.1.4 is amended as follows:**

Division 59.1.4 Defined Terms

\* \* \*

**Section 59.1.4.2 Specific Terms and Phrases Defined**

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

\* \* \*

**Shooting Range (Outdoor):** See Section 3.5.10.J.1

**Short-Term Residential Rental:** See Section 3.3.3.I

\* \* \*





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

**DIVISION 59.3.3. Residential Uses**

**Section 3.3.1. Household Living**

**A. Defined, In General**

Household Living means the residential occupancy of a dwelling unit by a household [on a monthly or longer basis] for 30 consecutive days or longer.

\* \* \*

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

\* \* \*

**I. Short-Term Residential Rental**

**1. Defined**

Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast.

**2. Use Standards**

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment.
- b. The applicant must provide proof that the home is his/her primary residence, regardless of dwelling unit type, by providing valid proof of home address as established by Executive Regulation under Method 2 of Chapter 2 (2A-15).
- c. Must comply with any Home Owner's Association or condominium document, or a rental lease.

- 48           d. The applicant must provide written proof that abutting and  
49           confronting neighbors have been notified of the application for a  
50           Short-Term Residential Rental. In an apartment or condominium  
51           building, neighbors living across the hall and those that share a  
52           ceiling, floor, and walls with the applicant's unit must be  
53           notified.
- 54           e. The property can be used as a Short-Term Residential Rental a  
55           maximum of 90 days in a calendar year.
- 56           f. The use must be licensed under Chapter 54. Each license must be  
57           issued for a term of one year, renewable for additional one-year  
58           terms, subject to payment of the license fee and compliance with  
59           all applicable laws. Renewal of licenses must follow procedures  
60           established by the Director of the Department of Health and  
61           Human Services (HHS).
- 62           g. The maximum number of occupants is limited by Chapter 26  
63           (Sec. 26-5); however, the total number of overnight guests in the  
64           Short Term Residential Rental who are 18 years or older is  
65           limited to six, and the total number of overnight guests over 18  
66           years of age per bedroom is limited to two.
- 67           h. A record of all overnight visitors must be maintained and readily  
68           available for inspection by HHS staff.
- 69           i. One off-street parking space must be provided for each rental  
70           contract unless the online listing indicates that vehicle parking is  
71           prohibited.
- 72           j. Except for persons visiting the primary resident, only registered  
73           guests are allowed on the property.

k. The applicant must post rules and regulations inside the rental, including contact information for a representative designated for emergency purposes. The designated representative must reside within 15 miles of the unit and be accessible for the entirety of any contract where the host is not present.

1. A Short-Term Residential Rental must have working, accessible fire extinguishers, smoke detectors and, if applicable, carbon monoxide detectors.

**Sec. [[2]]4. DIVISION 59-3.5 is amended as follows:**

**Division 3.5. Commercial Uses**

\* \* \*

**Section 3.5.6. Lodging**

**A. Defined, In General**

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

**B. Bed and Breakfast**

**1. Defined**

[[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.] a dwelling unit that is available for lodging. A Bed and Breakfast includes a dwelling unit that makes available the entire dwelling unit or any portion of the unit for rental periods. Meals may be provided to overnight guests when the provider satisfies the requirements of Chapter 15. ]]

Bed and Breakfast means a detached house that is owner-occupied with no more than 5 rooms for lodging. Meals may be provided to

overnight guests when the provider satisfies the requirements of  
Chapter 15. A Bed and Breakfast is not a Short-Term Residential  
Rental.

## **2. Use Standards**

- a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:
  - i. A Bed and Breakfast is prohibited in a dwelling unit [that also provides guest rooms for roomers, or] in a Farm Tenant Dwelling, or on a site that includes an Accessory Apartment.
  - ii. [The display of a sign must include the official house number.]
  - iii. Breakfast is the only meal that may be served and only to] [[The overnight guests on any night must satisfy the definition of one household.]]
  - iv] A guest must only remain in a Bed and Breakfast for a maximum of [14] [[30]] 14 days in any one visit.
  - iii]. A record of all overnight visitors must be maintained.
  - iv]. The Bed and Breakfast must be [registered with DPS] [[licensed under Chapter 54]] registered with DPS.
  - vii. 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.]
- v. 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.

[viii. In the Agricultural, Rural Residential, and Residential 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.]

vi. In the Agricultural, Rural Residential, and Residential 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.

[[vi. The dwelling unit must be the primary residence of the bed and breakfast licensee.]]

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

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

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

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

- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than primary residential standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.
- ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
- iii. Screening under Division 6.5 is not required.
- iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.]

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

- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than primary residential standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.

- ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
- iii. Screening under Division 6.5 is not required.
- iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.

**Sec. ~~[[3]]5. DIVISION 59-8.2 is amended as follows:~~**

**Division 8.2. Residential Floating Zones**

\* \* \*

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

- A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
- B. The following Use Table identifies uses allowed in each zone. Uses may be 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>RESIDENTIAL</b>							
Accessory Residential Uses	3.3.3						
* * *							
<u>Short-Term Residential Rental</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>
* * *							
<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</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>



<u>Breakfast</u>							
Office and Professional	3.5.8						
* * *							

195

196           **Sec. ~~[[4]]6. DIVISION 59-8.3 is amended as follows:~~**

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

198       \*    \*    \*

199       **Section 8.3.2. PD Zone**

200       \*    \*    \*

201       **B.     Uses**

202           **1.     Residential Uses**

203       \*    \*    \*

204                   c.     Short-Term Residential Rental is allowed as a limited use under  
205                               Section 3.3.3.I.

206       \*    \*    \*

207           **2.     Commercial Uses**

208       \*    \*    \*

209                   [[d.   A Bed and Breakfast is allowed as a limited use under Section  
210                               3.5.6.B.]]

211       \*    \*    \*

212           **Sec. ~~[[5]]7. Effective date.~~** This ordinance becomes effective 20 days after  
213       the date of Council adoption.

214

215       This is a correct copy of Council action.

216

217       \_\_\_\_\_

218       Linda M. Lauer, Clerk of the Council