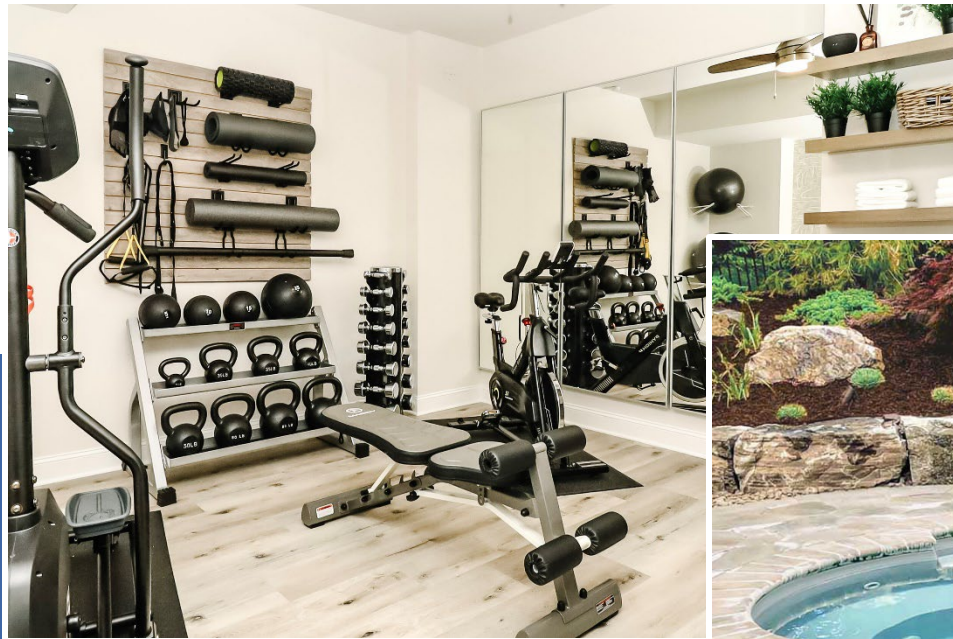


Montgomery Planning  
ZTA 23-01 & BILL 6-23  
SHARING ECONOMY RENTAL



### Description

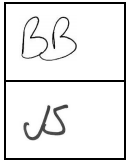
ZTA 23-01 and Bill 6-23 define, authorize, and regulate the business of hourly rentals of private residential property. ZTA 23-01 establishes a new use for Sharing Economy Rental under the Accessory Residential Uses section and establishes limited use standards for the use. Bill 6-23 establishes a licensing authority under the Department of Health and Human Services, including application criteria and processes for approval, renewal, suspension, and revocation.

ZTA 23-01 & Bill 6-23  
Completed: 02-16-2023

MCPB  
Item No. 12  
02-23-2023

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor 14  
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### INTRODUCED BY

Councilmember Jawando

### INTRODUCTION DATE

01/31/2023

### REVIEW BASIS

Chapter 59 – Zoning

Chapter 25C – Housing, Sharing Economy  
Rental



### Summary:

- Staff recommends the Planning Board transmit comments to the District Council in support of ZTA 23-01 and Bill 6-23 with amendments.
- The sharing economy continues to expand into new ventures, including new apps such as Swimply, which connects pool owners with the larger community, allowing for the private rental of backyard pools or other private amenities on an hourly basis.
- ZTA 23-01 and Bill 6-23 would define, authorize and regulate a new Accessory Residential Use, called Sharing Economy Rental, establishing a process for homeowners to legally rent all or a portion of their residential property on an hourly basis for private gatherings and events.

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## SECTION 1: BACKGROUND

### RATIONALE FOR INTRODUCTION

Zoning Text Amendment (ZTA) 23-01 and Bill 6-23 were introduced on January 31, 2023 by Councilmember Jawando as the lead sponsor (Attachment A). The ZTA and Bill were introduced to address the continued growth of the sharing economy that has expanded beyond overnight accommodations (such as Airbnb) to include short-term or hourly rentals of private property for private use.

The Sharing Rental Economy is intended to provide opportunities for homeowners to rent, on a short term (less than 12-hour) basis, portions of their home or property to earn extra income. This sort of rental became popularized during the earlier days of the COVID-19 pandemic as people were looking for opportunities to gather, recreate, or work-out when many public places were closed. Typical rentals that would fall under this category may include outdoor amenities such as a backyard pool and patio for a private pool party, outdoor recreation facilities like a private basketball or tennis court, or interior spaces like a finished basement and bar for a party or exercise rooms and equipment. These rentals are already ongoing within the county but are currently considered illegal as a private rental business on residentially zoned properties. The ZTA and Bill create the necessary framework to define the new use, provide standards around its operation, and create a new set of licensing for the county to administer.

## SECTION 2: ZTA AND BILL ANALYSIS

### ZTA NO. 23-01 AS INTRODUCED

ZTA 23-01 establishes a new Sharing Economy Rental Use in Chapter 59. The term Sharing Economy Rental is added to Section 1.4 Defined Terms, providing a reference to the use standards section 3.3.3.I for a specific definition. Most of the changes with the ZTA are in Division 3, starting with technical changes to the use table under Section 3.1.6. Sharing Economy Rental is added to the table as an Accessory Residential Use and is established as a limited (L) use in every zone. To keep the use table and the use standards sections alphabetized, the existing Short-Term Residential Rental use, which was under section 3.3.1.I, is shifted to 3.3.1.J.

Under Section 3.3.3. Accessory Residential Uses, an entire new subsection I. is added for Sharing Economy Rental. The proposed definition for Sharing Economy Rental is *the rental of any portion of a*

*dwelling or the property on which it sits for a fee where both the property and the dwelling are privately-owned by the same person or entity and where the rental period is less than 12 continuous hours.*

There are nine limited use standards proposed by the ZTA for the Sharing Economy Rental. These are discussed in greater detail in the analysis section of this report, but include ownership requirements, limitations on the number of rentals and times of day rentals may occur, and how many people may attend a rental, among other standards.

As stated before, the Short-Term Residential Rental section of code is shifting from Section 3.3.1.I to 3.3.1.J. The final set of amendments with ZTA 22-03 are in Division 8.2 Floating Zone use table, and Division 8.3 Planned Unit Development, allowed residential uses.

#### **BILL NO. 6-23 AS INTRODUCED**

Bill 6-23 establishes a new chapter in the County Code, Chapter 25C – Housing, Sharing Economy Rental, to establish a license requirement for the Sharing Economy Rental use in Chapter 59. There is a long list of requirements to certify a license under 25C-3. Many of these license requirements are similar to the use standards proposed for the Zoning Code, but others include requiring the property to comply with other relevant parts of the County Code, requirements for sanitation facilities or limiting operations to two-hour increments, rules around trash disposal, taxation, the notification of neighbors, and interactions with homeowners associations or community associations. The new code also has additional sections covering license approvals, renewals, certifications, suspensions and revocations, appeals, complains, maintenance, and report of violations. For reference, below is a comparison of the use standards that are in ZTA 23-01 and the certification requirements in Bill 6-23.

**Table 1 – Comparison of standards between Chapters**

<b>Certification or Standard</b>	<b>Zoning Standard<sup>1</sup></b>	<b>License Certification</b>
Sharing Economy Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.	X	
The building in which the Sharing Economy Rental is located complies with all applicable zoning standards under Chapter 59 of this Code.		X
The swimming pool, if provided, complies with Chapter 51 of this Code.		X
The total number of guests in any rental period who are 18 years or older is limited to 6.	X*	X
The total number of days with rentals in a 12-month period is limited to 120 days.	X*	X
Rentals will only occur between the hours of 8:00 a.m. and 10:00 p.m.	X*	X

<sup>1</sup> Standards noted with an \* are standards where the intent is the same between the ZTA and the Bill, however the exact text of the standard is written slightly differently.

<b>Certification or Standard</b>	<b>Zoning Standard<sup>1</sup></b>	<b>License Certification</b>
No sleeping quarters will be offered.		X
Sanitation facilities operate as designed.		X
If sanitation facilities are not provided, rentals are limited to 2 hours at a time.		X
The applicant has not been found guilty of a violation of this Chapter in the past 12 months.		X
All local taxes and required fees are paid in full, including the admissions and amusement tax under Section 52-16A.		X
The applicant is the owner or owner-authorized agent of the property.	X*	X
The applicant will post rules and regulations at the property, including parking restrictions and instructions regarding the disposal of trash.		X
One off-street parking space must be provided for each rental period unless the listing indicates that vehicle parking is prohibited.	X	
The applicant or a designated representative is present on the property for the duration of all rentals.	X*	X
The property owner or owner-authorized resident must obtain a license under Chapter 25C.	X	
A record of all rentals will be maintained and readily available for inspection.	X	X
Where applicable, the following parties were notified: (1) in a single-unit or attached unit, abutting and confronting neighbors; (2) in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit; (3) the municipality in which the residence is located (4) any applicable homeowner association, condominium, housing cooperative; and (5) the owner of the unit or the owner's agent, if the applicant is not the owner.		X
The application is not prohibited by any homeowners' association, condominium document, or rental lease.		X
The common ownership community fees for the dwelling unit are no more than 30 days past due.		X
Except for persons visiting the primary resident, only registered guests will be allowed on the property.		X
Any online listing will include the Sharing Economy Rental license number.		X



## ZTA NO. 23-01 AND BILL 6-23 ANALYSIS AND RECOMMENDATIONS

Planning staff recommends the Planning Board transmit comments to the District Council supporting ZTA 23-01 and Bill 6-23 with amendments. The focus of this analysis will be on the ZTA, but staff notes some of the standards recommended for change in the ZTA would need to be similarly adjusted in the Bill.

### LIMITED USE STANDARDS

The focus of staff's analysis on the ZTA is with the Use Standards section 3.3.3.I.2, starting on page 5 of the ZTA or page (13) of Attachment A. These use standards were drafted based on the use standards that exist for the Short-Term Residential Rental use (Airbnb and similar rental companies). The analysis of these standards, and the concerns raised by them are under the assumption that standards on the Sharing Rental Economies are intended to minimize externalities on surrounding residences. The impacts of many of these standards are difficult to fully assess given the uniqueness of each property and the type of facilities that are being rented. Generally, there are a few overarching concerns Planning staff has with the standards proposed in the ZTA, largely stemming from the wide range of activities that could potentially fall under the use of Sharing Economy Rental, and the different standards that would be most appropriate to those different activities. Some differences that staff see as potentially having a significant impact on appropriate standards include:

- Whether a use is indoor or outdoor, as outdoor uses are likely to create more externalities that would impact adjacent residences.
- How long the use is likely to last, as shorter rentals would generally have less of an impact than longer ones.
- The ability for a use to occur multiple times in one day, considering some rentals may be shorter (an hour or two) and in theory multiple parties could have rental agreements for the same day increasing daily visitors to the site.
- Seasonality of a use, that may be frequent in specific weather or times of year, which could impact how frequently rentals occur on a given property.
- How many people would be allowed at the use, with impacts generally being magnified with larger gatherings.
- Size of the property, with smaller properties likely magnifying any impacts or externalities caused by a rental.

With the list of differences in mind, below is the full list of standards from the ZTA and Planning staff's comments and recommendations.

- Sharing Economy Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.*

The intent of prohibiting a Farm Tenant Dwelling is reasonable since these dwellings are not the primary owner of the residential property, which by definition would make them ineligible

to secure a license or execute a contract. The prohibition of the use on properties with an Accessory Dwelling Unit is less obvious and a direct carry-over from the Short-Term Residential standards. The intent seems to act as a limit to the number of accessory residential uses any single-family residential property can have. Uses that are smaller, and less frequent may not create much additional impact and could be considered in these circumstances. Staff recommends a size threshold for the Sharing Economy Rental be considered that may allow some smaller rentals to still occur on properties with Accessory Dwelling Units.

- b. *The Sharing Economy Rental must be the property owner's or owner-authorized resident's primary residence, regardless of dwelling unit type.*

This standard is reasonable, given the contracts are intended to be between the property owner and the private party. This would also help ensure a property's sole purpose did not become a facility rental venue but rather remained as a residential dwelling.

- c. *The property owner or owner-authorized resident must be present at the residence during the rental period.*

This standard is reasonable to ensure rentals do not escalate beyond the contracted limitations and may help keep externalities, such as noise, to a minimum.

- d. *A Sharing Economy Rental may only operate for a maximum of 120 days in a calendar year.*

Planning staff have some concerns with this standard as a one-size fits all standard. This standard is based on a Short-Term Residential Rental standard that limits rentals to 120 days per calendar year if the property owner is not present, but allows unlimited rental days when the property owner is present. It is difficult to assign an appropriate number of days that a Sharing Economy Rental should be allowed to operate, in part because the negative externalities vary greatly between different types of rentals. Of high concern are the rentals that are for outdoor backyards, patios and pool areas. A limit of 120 days in a calendar year may only be an average of 10 days a month, but could become a daily occurrence for four months straight when renting space for outdoor activities that favor warmer weather. Conversely rentals for indoor space such as a gym studio or workshop could happen year-round and be better spread out. Staff recommends considering different standards for the maximum number of rentals allowed, either to permit fewer rentals for outdoor activities, or to limit rentals to a certain number per week or per month.

- e. *Rental hours are limited to 8:00 a.m. to 10:00 p.m.*

Similar to the concerns raised with standard d. above, assessing adequate hours of operation is difficult without knowing the specific type of rental occurring on any given property. The size of the rental is one consideration, and the location indoors vs. outdoors is another. Planning staff notes the daytime noise level limits in the County on weekdays run from 7:00



a.m. until 9:00 p.m. and on weekends and holidays run from 9:00 a.m. until 9:00 p.m. Given this, staff recommends creating different standards that set outdoor rentals to match the daytime noise limit hours, or more simply limit all rental hours to 9:00 a.m. to 9:00 p.m.

- e. *The property owner or owner-authorized resident must obtain a license under Chapter 25C.*

The purpose of the companion Bill 6-23 is to establish the license process for Sharing Economy Rentals which this standard references. This standard is reasonable as written, with the exception of it being identified as limited use standard e., which is duplicative of the prior standard. This should become limited use standard f., with each standard below also shifting down the list one letter.

- f. *The total number of guests in any rental period who are 18 years or older is limited to 6 persons*

While the intent of limiting the size of a Shared Economy Rental makes sense, the standard limits adults (but not children) is another direct reference to the Short-Term Residential Rental and may not be the most appropriate standard for a Sharing Economy Rental. The limit on the number of adults could curb parking demand but would seem to be of little other benefit if the total number of attendees is not limited. Some of the Sharing Economy Rental activities would likely not reach this threshold, but certain outdoor rentals (particularly cookouts or pool parties) could easily exceed these limits. If the limitation on the number of adults is about parking, a potential solution would be to change the parking provisions to make additional parking a condition of larger events. If the standards were intended to limit noise, Planning staff would suggest having a total guest limit would be more appropriate, or to limit the size of outdoor rentals but not indoor rentals. Staff could also see the benefit in setting a limit (one a month, or twelve a year) for larger gatherings as an alternative way to mitigate such impacts.

- g. *One off-street parking space must be provided for each rental period unless the listing indicates that vehicle parking is prohibited.*

Parking is one of the externalities Planning staff expects will be a major concern with neighbors, especially in communities with narrower streets, or where residents rely heavily on street parking. It is not desirable to turn residential properties into parking lots, but some assessment on the availability of on-street parking including the property's street frontage width may be worth considering when determining if zero, one, or more than one space should be made available off-street for Sharing Economy Rentals. Parking is also likely activity dependent, with some rentals, such as outdoor parties, generating a far greater parking demand than others. As discussed in the standard above, a combination approach to parking and rental size should be considered.

- h. *A record of all rentals must be maintained and readily available for inspection.*

This standard is reasonable to help inspectors with the licensing and potential violation proceedings that may occur, in addition to personal liabilities that a property owner may face with Sharing Economy Rentals.

## OTHER CONCERNS

In assessing the proposed use standards in the ZTA and the license requirements in the corresponding Bill, Planning staff has identified a few other areas that may want to be considered:

- *How many rentals are allowed in a given day*

The limited use standards proposed cover the number of days in a year and hours in a day rentals may occur, but do not speak to the number of rentals that may occur within one day. With each additional rental, the impacts multiply, so if the intent of these standards is to provide a minimum level of compatibility between the rental site and the surrounding community it seems reasonable to add a limit on how many rentals can occur in a day. Staff can envision a scenario where multiple outdoor parties occur in the same day creating an extended period of outdoor noise and increased traffic and parking impacts. Like with most of the standards, the size and type of events do matter, with small indoor-only events being less impactful than larger outdoor ones.

- *Standards in Chapter 59 vs. in Chapter 25C*

An additional concern Planning staff has is the inconsistency in how standards are worded between Chapters 59 and 25C, and more broadly whether the standards should be in both places or only located in one chapter. There are a few standards that are uniquely appropriate to only one or the other chapter, such as Chapter 59 requiring a license under Chapter 25C, and Chapter 25C requiring full standing compliance with other provisions in Chapter 59. Beyond these obvious examples, the distribution of standards across the two chapters seems more arbitrary. It makes sense for Chapter 59 to contain standards directly relating to land use or zoning provisions, but to that effect, standards in Bill 6-23 such as (f) *no sleeping quarters will be offered* seem to be missing. Conversely, provisions currently in ZTA 23-01 such as (c) *the applicant or a designated representative is present on the property for the duration of all rentals* and (h) *a record of all rentals must be maintained and readily available for inspection* are good standards but may be redundant for zoning. Planning staff suggests limiting the standards listed in Chapter 59 to the minimum necessary to ensure compliance with zoning as discussed above and that the other standards are all appropriate for inclusion or retention in chapter 25C stipulating the requirements for a license.

## SECTION 3: LEGISLATED ANALYSIS

### CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022 requires the Planning Board to prepare a climate assessment for each zoning text amendment, master plan, and master plan amendment, effective March 1, 2023. Each climate assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and upon community resilience and adaptive capacity. The climate assessment prepared by Planning staff for ZTA 23-01 can be found in Attachment B. Planning staff wants to highlight that this is the first climate assessment conducted under this climate impact legislation.

The climate assessment for ZTA 23-01 anticipates an indeterminate impact on greenhouse gas emissions and adaptive capacity, and a small positive impact on community resilience. The changes in uses and travel patterns will vary at the local scale with some Sharing Economy Rentals possibly having a small negative impact and others a small positive impact, making it difficult to determine any total direction of change for carbon emissions. The anticipated slight improvement in community resilience is a result of more opportunities for the distribution of economic resources and possible enhancement of social networks resulting from these rentals.

### RACIAL EQUITY & SOCIAL JUSTICE

As of the posting of this staff report, the Office of Legislative Oversight has not completed a Racial Equity and Social Justice analysis for ZTA 23-01.

## SECTION 4: CONCLUSION

Planning staff recommends the Planning Board transmit comments to the District Council supporting ZTA 23-01 with the comments recommended by staff. This ZTA does provide a good opportunity to legalize a growing sharing economy segment, however the standards and provisions for this new use may be too broad to cover all of the possible uses that would fall under Sharing Rental Economy and sub-uses or sub-lists of standards may be appropriate. Planning staff look forward to working with the Council as needed to make any desired refinements to the proposed code changes going forward.

### ATTACHMENTS

Attachment A – ZTA 23-01 and Bill 06-23 Introduction Packet

Attachment B – Climate Impact Assessment



**Committee:** Joint

**Committee Review:** At a future date

**Staff:** Livhu Ndou, Legislative Attorney

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

**Keywords:** #SharingEconomy #PrivatePoolRental

AGENDA ITEMS# 4D & 6

January 31, 2023

**Introduction**

## SUBJECT

Bill 6-23; Housing – Sharing Economy Rental

Zoning Text Amendment 23-01, Accessory Residential Uses – Sharing Economy Rental

Lead Sponsor: Councilmember Jawando

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce bill – no vote expected
- To introduce Zoning Text Amendment – no vote expected

## DESCRIPTION/ISSUE

Bill 6-23 and ZTA 23-01 will authorize and regulate the hourly rental of private residential property.

## SUMMARY OF KEY DISCUSSION POINTS

- ZTA 23-01, Accessory Residential Uses – Sharing Economy Rental, will create the use Sharing Economy Rental. A sharing economy rental would be defined as any portion of a home or the property it's on that is rented for a fee for less than 12 continuous hours.
- Bill 6-23 would place licensing authority under the Department of Health and Human Services (DHHS). The bill outlines the certifications that an applicant must make to apply for a license; and provides the processes for license approval and renewal, suspension, and revocation.
- A public hearing is tentatively scheduled for March 7, 2023.

## This report contains:

Staff Report

Bill 6-23

ZTA 23-01

Legislative Request Report

Pages 1-2

© 1

© 9

© 16

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

January 26, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Bill 6-23; Housing – Sharing Economy Rental  
Zoning Text Amendment 23-01, Accessory Residential Uses – Sharing Economy Rental

PURPOSE: Introduction – no Council votes required

Bill 6-23, Housing – Sharing Economy Rental and Zoning Text Amendment 23-01, Accessory Residential Uses – Sharing Economy Rental, lead sponsor Councilmember Jawando, are scheduled for introduction on January 31, 2023.

ZTA 23-01 will create a new use in the Zoning Ordinance – “Sharing Economy Rental.” Bill 6-23 will provide the framework for license applications, renewals, suspension, and revocation for this new use.

**BACKGROUND**

ZTA 23-01 and Bill 6-23 will authorize and regulate the hourly rental of private residential property. As the sharing economy expands, companies such as Swimply and Bark have gained traction in Montgomery County.<sup>1</sup> These companies allow homeowners to rent out their swimming pools, backyards, and other parts of their property at an hourly rate. This commercial activity is not currently allowed in the County.

**BILL SPECIFICS**

ZTA 23-01, Accessory Residential Uses – Sharing Economy Rental, will create the use Sharing Economy Rental. A sharing economy rental would be defined as any portion of a home or the

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<sup>1</sup> “sharing economy, noun, economic activity that involves individuals buying or selling usually temporary access to goods or services especially as arranged through an online company or organization” <https://www.merriam-webster.com/dictionary/sharing%20economy>.

property its on that is rented for a fee for less than 12 continuous hours. No overnight accommodations would be permitted. Restrictions on the use include: the property owner or an authorized resident must be present during the rental period; the rental may only operate for a maximum for 120 days in a calendar year; the total number of adult guests is limited to 6 per rental period; and one off-street parking space must be provided, or the property owner must inform the guest that parking is prohibited.

Accompanying ZTA 23-01 is Bill 6-23, which would create a new chapter in the County Code. Bill 6-23 would place licensing authority under the Department of Health and Human Services (DHHS). The bill outlines the certifications that an applicant must make to apply for a license, including compliance with other chapters of the County Code and notice to certain nearby properties and entities. Bill 6-23 also provides the processes for license approval and renewal, suspension and revocation, and challenges to applications.

This packet contains:

Bill 6-23

ZTA 23-01

Legislative Request Report

Circle #

1

9

16

Bill No. 6-23  
Concerning: Housing – Sharing Economy  
Rental  
Revised: 1/20/23 Draft No. 1  
Introduced: January 31, 2023  
Expiration: July 31, 2024  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando

### AN ACT to:

- (1) define Sharing Economy Rental;
- (2) establish a licensing system and certification requirements for Sharing Economy Rentals;
- (3) revise the definition of private swimming pools; and
- (4) generally amend the provisions for residential rentals.

### By amending

Montgomery County Code  
Chapter 51, Swimming Pools  
Sections 51-1

Chapter 54, Transient Lodging Facilities  
Sections 54-1

### By adding:

Montgomery County Code  
Chapter 25C, Housing, Sharing Economy Rental  
Sections 25C-1, 25C-2, 25C-3, 25C-4, 25C-5, 25C-6, 25C-7, 25C-8, 25C-9, 25C-10, 25C-11, 25C-12, and 25C-13

**Boldface**Underlining**[Single boldface brackets]**Double underlining**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.**Added to existing law by original bill.**Deleted from existing law by original bill.**Added by amendment.**Deleted from existing law or the bill by amendment.**Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*



1        **Sec. 1. Sections 25C-1, 25C-2, 25C-3, 25C-4, 25C-5, 25C-6, 25C-7, 25C-8,**  
 2        **25C-9, 25C-10, 25C-11, 25C-12, and 25C-13 are added as follows:**

3        **Chapter 25C. Housing, Sharing Economy Rental.**

4        **25C-1. Definitions.**

5        For the purposes of this Chapter, the following words and phrases have the  
 6        following meanings:

7        Director means the Director of the Department of Health and Human  
 8        Services, or the Director's designee.

9        Department means the Department of Health and Human Services.

10       Dwelling means any building which is wholly or partly used or intended to be  
 11       used for residing, lodging, or sleeping by human occupants.

12       Dwelling unit means any room or group of rooms located in a dwelling which  
 13       form a single habitable unit with facilities which are used or intended to be  
 14       used for living, sleeping, cooking, and eating.

15       Sharing Economy Rental means the rental of any portion of a dwelling or the  
 16       property on which it sits for a fee where both the property and the dwelling  
 17       are privately-owned by the same person or entity and where the rental period  
 18       is less than 12 continuous hours, as allowed under Section 59-3.3.3.I of this  
 19       Code.

20       Property means one or more tracts of land that are under common control,  
 21       operation, or ownership or are under one application.

22       **25C-2. License required.**

23       A person must not operate a Sharing Economy Rental in the County without  
 24       a license issued by the Director. After the initial issuance of a license, the  
 25       license must be renewed once a year.

26       **25C-3. Certification for a License.**

An application or license renewal for a Sharing Economy Rental must be signed by the applicant and the applicant must certify that:

- (a) the building in which the Sharing Economy Rental is located complies with all applicable zoning standards under Chapter 59 of this Code;
- (b) the swimming pool, if provided, complies with Chapter 51 of this Code;
- (c) the total number of guests in any rental period who are 18 years or older is limited to 6;
- (d) the total number of days with rentals in a 12-month period is limited to 120 days;
- (e) rentals will only occur between the hours of 8:00 a.m. and 10:00 p.m.;
- (f) no sleeping quarters will be offered;
- (g) sanitation facilities operate as designed;
- (h) if sanitation facilities are not provided, rentals are limited to 2 hours at a time;
- (i) the applicant has not been found guilty of a violation of this Chapter in the past 12 months;
- (j) all local taxes and required fees are paid in full, including the admissions and amusement tax under Section 52-16A;
- (k) the applicant is the owner or owner-authorized agent of the property;
- (l) the applicant will post rules and regulations at the property, including parking restrictions and instructions regarding the disposal of trash;
- (m) the applicant or a designated representative is present on the property for the duration of all rentals;
- (n) a record of all rentals will be maintained and readily available for inspection;
- (o) where applicable, the following parties were notified:

(1) in a single-unit or attached unit, abutting and confronting neighbors;

(2) in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit;

(3) the municipality in which the residence is located;

(4) any applicable homeowner association, condominium, housing cooperative; and

(5) the owner of the unit or the owner's agent, if the applicant is not the owner;

(p) the application is not prohibited by any homeowners' association, condominium document, or rental lease;

(q) the common ownership community fees for the dwelling unit are no more than 30 days past due;

(r) except for persons visiting the primary resident, only registered guests will be allowed on the property; and

(s) any online listing will include the Sharing Economy Rental license number.

#### **25C-4. Applications.**

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

#### **25C-5. Fees.**

The Executive must establish annual fees for licenses under this Article by regulation adopted under method (3) of Section 2A-15 of this Code. Fees must not exceed an amount necessary to defray the costs of administering this Chapter.

#### **25C-6. License Approval and Renewal.**

(a) The Director must:

- (1) accept the self-certification of the applicant after verifying compliance by reviewing available records;
- (2) complete an inspection of the property before issuing the initial license;
- (3) approve or deny an initial license within 30 working days after receipt of the application and all required fees unless the Director receives a challenge to the certifications under Section 25C-7;
- (4) issue the license 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 and certifications required for the license; and
- (5) inspect the property every 2 years.

(b) All reports of inspections must be in writing. If the property fails inspection, a license must not be issued or renewed until the violation has been corrected.

#### **25C-7. 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 license;
- (2) the municipality in which the residence is located;
- (3) any applicable homeowners association, condominium, housing cooperative; or
- (4) the owner of the unit or the owner's agent, if the applicant is not the owner.

(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 questions 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.

#### **25C-8. Suspension and Revocation.**

- (a) The Director may suspend any license issued under this Chapter if the Director finds that the licensee has violated this Chapter or any other applicable law or regulation.
- (b) The license must be revoked for any applicant receiving at least three complaints that are verified as a violation of the license or of the County Code within any 12-month period.
- (c) Renewal or reinstatement of licenses must follow procedures established by the Director.

#### **25C-9. Appeals.**

Any person aggrieved by an approval, denial, or suspension of a Sharing Economy Rental 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.

#### **25C-10. Effect of a revocation.**

For a period of 3 years after a license is revoked, the Director must not issue a Sharing Economy 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.

**25C-11. Complaints.**

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

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

(c) If the violation is not corrected immediately, the Director may revoke or suspend the license under Section 25C-8.

**25C-12. Maintenance of premises.**

The property owner of a Sharing Economy Rental is responsible for maintaining all parts of the property available for rental in a clean and sanitary condition.

**25C-13. Report of violations of article.**

The Department is responsible for making all necessary inspections regulated under this Article, including because of a filed complaint, and must report to the Director any violations of this Division.

\* \* \*

**Sec. 2. Section 51-1 is amended as follows:**

**51-1. Definitions.**

In this Chapter, the following words have the following meanings:

\* \* \*

*Private swimming pool* means any swimming pool that is:

(a) built on the grounds of a single-family private residence; and

(b) used solely by the owner, immediate family, tenants, and guests. Guests includes persons paying a fee for the use of a swimming pool under Chapter 25C.

\* \* \*

**Sec. 3. Sections 54-1 is amended as follows:**

**54-1. Definitions.**

\* \* \*

*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] 59-3.3.3.J of this Code.



Ordinance No.: \_\_\_\_\_  
Zoning Text Amendment No.: 23-xx  
Concerning: Accessory Residential  
Uses – Sharing Economy  
Rental  
Revised: 1/20/2023 Draft No.: 1  
Introduced: \_\_\_\_\_  
Public Hearing: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

**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: Councilmember Jawando

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

- (1) define Sharing Economy Rental; and
- (2) generally amend accessory residential uses.

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

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.1.	“Use Table”
Section 3.1.6.	“Use Table”
Division 59.3.3.	“Residential Uses
Section 59.3.3.3.	“Accessory Residential Uses”
Division 8.2.	“Residential Floating Zones”
Section 8.2.3.	“Use Table for the RT and R-H 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 1.4. Defined Terms**

\* \* \*

**Section 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.

\* \* \*

**Sharing Economy Rental:** See Section 3.3.3.I

\* \* \*

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

\* \* \*

**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.

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential												Commercial/ Residential			Employment			
						Residential Detached								Residential Townhouse			Residential 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
* * *																								
RESIDENTIAL																								
* * *																								
ACCESSORY RESIDENTIAL USES	3.3.3.																							
* * *																								
Home Occupation (Major Impact)	3.3.3.H	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
<u>Sharing Economy Rental</u>	<u>3.3.3.I</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Short-Term Residential Rental	<u>[3.3.3.I]</u> <u>3.3.3.J</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
* * *																								

\*\*\*

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\* \* \*

### Sec. 3. DIVISION 59-3.3 is amended as follows:

#### Division 3.3. Residential Uses

\* \* \*

#### Section 3.3.3. Accessory Residential Uses

\* \* \*

#### I. Sharing Economy Rental

##### 1. Defined

Sharing Economy Rental means the rental of any portion of a dwelling or the property on which it sits for a fee where both the property and the dwelling are privately-owned by the same person or entity and where the rental period is less than 12 continuous hours.

## **2. Use Standards**

Where Sharing Economy Rental is allowed as a limited use, it must satisfy the following standards:

- a. Sharing Economy Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.
- b. The Sharing Economy Rental must be the property owner's or owner-authorized resident's primary residence, regardless of dwelling unit type.
- c. The property owner or owner-authorized resident must be present at the residence during the rental period.
- d. A Sharing Economy Rental may only operate for a maximum of 120 days in a calendar year.
- e. Rental hours are limited to 8:00 a.m. to 10:00 p.m.
- e. The property owner or owner-authorized resident must obtain a license under Chapter 25C.
- f. The total number of guests in any rental period who are 18 years or older is limited to 6 persons.
- g. One off-street parking space must be provided for each rental period unless the listing indicates that vehicle parking is prohibited.
- h. A record of all rentals must be maintained and readily available for inspection.

## **[I]J. Short-Term Residential Rental**

\* \* \*

**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**

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
RESIDENTIAL							
* * *							
ACCESSORY RESIDENTIAL USES	3.3.3.						
* * *							
Home Occupation (Major Impact)	3.3.3.H	C	C	C	C	C	C
<u>Sharing Economy 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>
Short-Term Residential Rental	<u>[3.3.3.I]</u> <u>3.3.3.J</u>	L	L	L	L	L	L
* * *							

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.

\* \* \*

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

\* \* \*

64    **Section 8.3.2. PD Zone**

65    \*    \*    \*

66    **B.     Uses**

67        **1.     Residential Uses**

68    \*    \*    \*

69                   c.     Short-Term Residential Rental is allowed as a limited use under  
70                               Section [3.3.3.I.] 3.3.3.J.

71   \*       \*       \*

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



## LEGISLATIVE REQUEST REPORT

Bill 6-23

*Housing – Sharing Economy Rental*

<b>DESCRIPTION:</b>	Bill 6-23 will provide the framework for license applications, renewals, suspension, and revocation for Sharing Economy Rentals.
<b>PROBLEM:</b>	County residents are already renting their private property hourly via platforms like Swimply and Bark.
<b>GOALS AND OBJECTIVES:</b>	Authorize the hourly rental of private property.
<b>COORDINATION:</b>	Department of Health and Human Services, Department of Permitting Services, Finance
<b>FISCAL IMPACT:</b>	To be requested from Office of Management and Budget.
<b>ECONOMIC IMPACT:</b>	To be requested from Office of Legislative Oversight (OLO).
<b>RACIAL EQUITY AND SOCIAL JUSTICE IMPACT</b>	To be requested from Office of Legislative Oversight (OLO).
<b>EVALUATION:</b>	To be done.
<b>EXPERIENCE ELSEWHERE:</b>	Unable to find other U.S. jurisdictions that have enacted similar legislation.
<b>SOURCE OF INFORMATION:</b>	Livhu Ndou, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	N/A
<b>PENALTIES:</b>	To be determined.



## CLIMATE ASSESSMENT FOR ZTA 23-01, SHORT-TERM RECREATIONAL RENTALS

### PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the climate assessments is to evaluate the anticipated impact of master plans and zoning text amendments (ZTAs) on the County's contribution to addressing climate change. These assessments will provide the County Council with a better understanding of the potential climate impacts and implications of proposed master plans and ZTAs at the county level. The scope of the climate assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas (GHG) emissions, and how actions proposed by master plans and ZTAs could improve the County's adaptive capacity to climate change and increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed master plans and ZTAs may impact GHG emissions and community resilience.

### SUMMARY

Montgomery Planning anticipates that ZTA 23-01 will result in an overall indeterminate impact resulting from an aggregate of minor local negative and positive climate-related impacts toward the County's goals of addressing greenhouse gas emissions and ensuring resilience, and a small positive impact on the adaptive capacity of our communities. The number of future permits issued and where the permitted sites, patron residences and alternate facility options are located relative to each other are all unknown, therefore the ZTA would likely have indeterminate small positive or negative local impacts on some greenhouse gas emissions-related variables in the transportation and energy sectors, and small positive impacts on several community adaptive capacity-related variables.

Given the indeterminate number and locations of any future sites that acquire this use, the potential impacts are also indeterminate. Regardless, in view of the small scale, short-term intermittent nature of these uses, which take advantage of existing structures, these potential impacts would likely be minor on a countywide scale.

### BACKGROUND AND PURPOSE OF ZTA 23-01

ZTA 23-01 was introduced on January 31, 2023 by Councilmember Jawando to address the continued growth of the sharing economy which has expanded beyond overnight accommodations (such as

Airbnb) to include a whole industry of short-term hourly rentals of private property for private use. The intent of the ZTA is to provide legal opportunities for homeowners to rent out portions of their homes or properties on a short-term basis for extra income. Examples of short-term rentals include renting out a backyard with a pool for a private party, or an indoor gym as an alternative to joining a large commercial gym. This ZTA creates a new Sharing Economy Rental use and establishes the limited use standards by which the use is governed. ZTA 23-01 has a companion bill (Bill 6-23), which establishes a new chapter of County Code (25C), creating a license framework for the Sharing Economy Rental use.

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## VARIABLES THAT COULD AFFECT THE ASSESSMENT

### CLIMATE-RELATED VARIABLES

#### **Greenhouse Gas-related Variables:**

Transportation-related: Vehicle Miles Traveled (VMT); Number of Trips; Non-vehicle Modes of Transportation; and Public Transportation Use

Energy-related: Electricity Usage; and Stationary Fuel Usage

#### **Resilience-related Variables:**

Exposure-Related Factors: Activity in Urban Heat Islands

Sensitivity-Related Factors: Change to Air Quality

#### **Adaptive Capacity-Related Variables:**

Change in Availability or Distribution of Economic and Financial Resources; Change to Community Connectivity; and Change in Distribution of Resources and Support

### OTHER VARIABLES

Other variables include the number of future permits issued pursuant to the ZTA, the number and frequency of events at each permitted site, and where the sites, patron residences, transportation options, and alternate facility options are located relative to each other.

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## ANTICIPATED IMPACTS

### GREENHOUSE GAS EMISSIONS, CARBON SEQUESTRATION, AND DRAWDOWN

The ZTA is anticipated to result in an overall indeterminate impact resulting from an aggregate of minor local negative and positive climate-related impacts toward the County's goals of addressing greenhouse gas emissions. For example, in some cases, short-term intermittent greenhouse gas

emissions could be increased due to increased vehicle miles traveled (VMT) to rental sites, whereas in other cases VMT could be decreased due to shorter trips to a rental site compared to trips previously needed to access more distant alternate facilities. Similarly, the number of future permits issued, the number and frequency of events at each site, and where the permitted sites, patron residences, transportation options, and alternate facility options are located relative to each other (all of which are unknown), can result in indeterminate positive or negative impacts for each of the other greenhouse variables listed above. These include number of trips, non-vehicle modes of transportation, public transportation use, electricity usage, and stationary fuel usage. Regardless, in view of the small scale, short-term and intermittent nature of these uses, which take advantage of existing structures, these potential impacts would likely be minor on a countywide scale.

#### COMMUNITY RESILIENCE AND ADAPTIVE CAPACITY

The ZTA is anticipated to result in an overall indeterminate impact resulting from an aggregate of minor local negative and positive climate-related impacts toward the County's goals of addressing community resilience. As with the greenhouse gas emission discussion above, the number of future permits issued and where the rental sites, patron residences and alternate facility options are located relative to each other (all of which are unknown), can result in indeterminate positive or negative impacts for certain resilience-related variables. These include activity in urban heat islands and change to air quality. Regardless, in view of the small scale, short-term and intermittent nature of these uses, which take advantage of existing structures, these potential impacts would likely be minor on a countywide scale.

The ZTA is anticipated to have a positive impact on several adaptive capacity-related variables including change in availability or distribution of economic and financial resources, change to community connectivity, and change in distribution of resources and support. This is due to potential enhancements in household incomes, social support networks, number of available local gathering places, neighborhood sense of community, as well as increasing the potential of helping others in times of need. Nevertheless, in view of the small scale, short-term and intermittent nature of these uses, which take advantage of existing structures, these potential impacts would likely be minor on a countywide scale.

#### RELATIONSHIP TO GHG REDUCTION AND SEQUESTRATION ACTIONS CONTAINED IN THE MONTGOMERY COUNTY CLIMATE ACTION PLAN (CAP)

ZTA 23-01 does not involve any GHG or sequestration activities that relate to the GHG reduction and sequestration actions from the County's Climate Action Plan.

#### RECOMMENDED AMENDMENTS

Planning staff does not have any recommended climate-related amendments to ZTA 23-01 because the ZTA would likely result in an overall indeterminate aggregate of small positive and negative local

impacts on greenhouse gas emissions and resilience. Moreover, other than the anticipated small positive impacts on community adaptive capacity resulting from increasing the availability of local rentable places for social gatherings, the ZTA does not offer obvious additional opportunities for significantly enhancing positive climate change impacts beyond the potential benefits associated with the proposed use as discussed in this assessment.

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## SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

The climate assessment for ZTA 23-01 was prepared using the methodology (tables 1, 2, and 8, in particular) for ZTAs contained within the [\*Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County, December 1, 2022\*](#).