

Ordinance No.: 18-30
Zoning Text Amendment No.: 17-03
Concerning: Accessory Residential
Uses – Short-Term Rental
Draft No. & Date: 3 – 10/10/17
Introduced: June 13, 2017
Public Hearing: September 12, 2017
Adopted: October 10, 2017
Effective: July 1, 2018

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

Lead Sponsor: Council President at the request of the Planning Board

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.*

OPINION

Zoning Text Amendment No. 17-03 was introduced on June 13, 2017 to allow for short-term residential rental under certain circumstances, including a requirement for a short-term rental license under Bill 2-16.

In its report to the Council, the Montgomery County Planning Board recommended approval as introduced with the approval of Bill 2-16 as revised.

The County Council held a public hearing on September 19, 2017 to receive testimony concerning the proposed text amendment. Some wanted the issuance of a license to be predicated on a statement from the appropriate association that the short-term rental was allowed. In addition, they request a provision to bar a license if HOA dues are in arrears.

Hotel owners do not want short-term residential rentals to have a competitive advantage. The hotel industry supported the proposed ZTA as offering a more even regulatory playing field. Hotels are currently subject to taxes, licensing, and inspections. Hotels would favor an additional requirement that any advertisement for a short-term residential rental include the owner's state and local license number.

The Apartment and Office Building Association (AOBA) requested the opportunity for landlords to rent some units on a short-term basis. The Association also asked for more enforcement authority for the administering department, including subpoena power among other recommendations.

The most critical testimony came from people and civic organizations who thought that the current illegal status of short-term rentals was satisfactory. The testimony stated a concern that short-term residential rentals 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;
- be unsafe because they do not meet fire and safety standards;
- destabilize and disrupt communities by driving out long-term residents;

- reduce the availability of affordable housing;
- be an enforcement problem;
- turn into party houses;
- create parking problems; and
- be overconcentrated in unincorporated areas of the County.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on September 18, 2017 and September 25, 2017 to review the text amendment. On September 25, 2017, the Committee (3-0) recommended approval of ZTA 17-03 with revisions to Subsection 59.3.3.3.I.2.b and c as follows:

- b. The dwelling unit used as a Short-Term Rental must be the [[applicant's]] property owner's or owner-authorized resident's primary residence, regardless of dwelling unit type.
- c. If the [[applicant]] property owner or owner-authorized resident 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]] property owner or owner-authorized resident is physically present [[in]] and occupies 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.

The Committee in all other respects agreed with the Planning Board recommendation to include the following limitations on short-term residential rental:

- Allow only on sites without either a farm tenant dwelling or an accessory apartment.
- Allow only if the site is the primary residence of the applicant.
- Limit the maximum rentals in a calendar year to 90 days, counting only when the owner or authorized resident is absent.
- Limit the total number of adult overnight guests to six.
- Limit the total number of adult overnight guests per bedroom to two.
- Require one off-street parking space for each rental contract, unless the online listing indicates that vehicle parking is prohibited.

The District Council reviewed Zoning Text Amendment No. 17-03 at a worksession held on October 10, 2017. The Council agreed with the Committee's recommendation to approve ZTA 17-03 as amended, with one exception. The Council changed the limit on the number of days a short-term rental unit could be rented without an owner or owner-authorized renter occupying the unit from 90 days to 120 days.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 17-03 will be approved as amended.

ORDINANCE

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

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

2 Division 59.1.4. Defined Terms

3 * * *

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

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

6 The following words and phrases have the meanings indicated.

7 * * *

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

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

10 * * *

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

12 * * *

13 **Section 3.1.6. Use Table**

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

16

USE OR USE GROUP	Definitions and Standards	Ag	Residential													Commercial/Residential			Employment						
			Rural Residential						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.																								
* * *																									
<u>Short-Term Residential Rental</u>	<u>3.3.3.1</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
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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

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

32 **2. Use Standards**

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

- 35 a. Short-Term Residential Rental is prohibited in a Farm Tenant
36 Dwelling or on a site that includes an Accessory Apartment.
- 37 b. The dwelling unit used as a Short-Term Rental must be the
38 [[applicant's]] property owner's or owner-authorized resident's
39 primary residence, regardless of dwelling unit type.
- 40 c. If the [[applicant]] property owner or owner-authorized resident
41 is not present in the residence, the property can be used as a
42 Short-Term Residential Rental for a maximum of [[90]] 120
43 days in a calendar year. If the [[applicant]] property owner or
44 owner-authorized resident is physically present [[in]] and
45 occupies the residence during the rental stay, there is no
46 limitation on the number of days the property can be used as a
47 Short-Term Residential Rental.
- 48 d. The use must be licensed under Chapter 54.
- 49 e. The maximum number of occupants is limited by Chapter 26,
50 Section 5; however, the total number of overnight guests in the
51 Short-Term Residential Rental who are 18 years or older is
52 limited to six, and the total number of overnight guests over 18
53 years of age per bedroom is limited to two.

54 f. One off-street parking space must be provided for each rental
55 contract unless the online listing indicates that vehicle parking
56 is prohibited.

57 * * *

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

59 **Division 3.5. Commercial Uses**

60 * * *

61 **Section 3.5.6. Lodging**

62 **A. Defined, In General**

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

65 **B. Bed and Breakfast**

66 **1. Defined**

67 Bed and Breakfast means a detached house that is owner-occupied
68 with no more than 5 guest rooms for rent and customarily serves
69 breakfasts to guests. A Bed and Breakfast is not a Short-Term
70 Residential Rental.

71 * * *

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

73 **Division 8.2. Residential Floating Zones**

74 * * *

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

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

77 B. The following Use Table identifies uses allowed in each zone. Uses may be
78 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
* * *							
RESIDENTIAL							
* * *							
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>
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80 **Sec. 6. DIVISION 59-8.3 is amended as follows:**

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

82 * * *

83 **Section 8.3.2. PD Zone**

84 * * *

85 **B. Uses**

86 **1. Residential Uses**

87 * * *

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

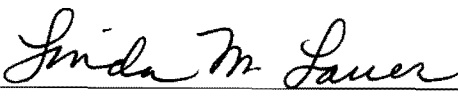
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91 **Sec. 7. Effective date.** This ordinance becomes effective on July 1, 2018.

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93 This is a correct copy of Council action.

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96 Linda M. Lauer, Clerk of the Council