

MEMORANDUM

September 8, 2017

TO: County Council

FROM: Jeffry L. Zyontz, Senior Legislative Analyst

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

Bill 2-16, Transient Housing – Licensing and Registration, sponsored by Lead Sponsor Councilmember Riemer and Co-Sponsor Councilmember Rice, was introduced on February 2, 2016. A public hearing was held on March 8, 2016 on the bill that was introduced. A Planning, Housing and Economic Development Committee worksession is tentatively scheduled for September 18 at 2:00 p.m.

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

This Bill anticipates the approval of ZTA 16-03 which will make a Bed and Breakfast a limited use in most residential and mixed-use zones, however, the enactment of Bill 2-16 does not require the approval of ZTA 16-03. The only transient housing allowed by the Zoning Ordinance (Chapter 59 of the code) are hotels and bed and breakfast establishments. ZTA 16-03 would not change that fact. Those establishments are addressed in Bill 2-16.

Currently, the licensing requirements for a Bed and Breakfast are currently the same as the licensing requirements for a hotel. Even though the level of rental activity at a hotel is significantly higher than at a Bed and Breakfast, the County's regulatory burdens are currently identical. An annual license is required for every establishment, with annual inspections. The Department of Health and Human Services has not received any applications for any Bed and Breakfast under current law. No licenses are outstanding.

As introduced, Bill 2-16 would simplify existing requirements for hotels in more precise, concise and decisive text. Licenses for a Bed and Breakfast would be by self-certification but subject to revocation based on substantiated complaints.

This packet contains:

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Bill No. 2-16
Concerning: Transient Housing –
Licensing and registration
Revised: 6/6/17 Draft No. 6
Introduced: February 2, 2016
Expires: August 2, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Riemer
Co-Sponsor: Councilmember Rice

AN ACT to:

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

By amending

Montgomery County Code

Chapter 54, Transient Lodging Facilities

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

By adding:

Montgomery County Code

Chapter 54, Transient Lodging Facilities

Sections 54-22A, 54-42, 54-43, 54-44, 54-45, 54-46, 54-47, 54-48, and 54-49

Boldface

Heading or defined term.

Underlining

Added to existing law by original bill.

[Single boldface brackets]

Deleted from existing law by original bill.

Double underlining

Added by amendment.

[[Double boldface brackets]]

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

5 **54-1. Definitions.**

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

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

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

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

18 Bed and Breakfast means a [dwelling unit or part of a dwelling that is available
 19 to overnight guests for compensation. Overnight guests on any night must
 20 satisfy the definition of one household. A guest must stay at a Bed and
 21 Breakfast for no more than 30 days in any one visit. Meals may be provided
 22 to overnight guests. Bed and Breakfast means a] detached house that is
 23 owner-occupied with no more than 5 guest rooms for rent and customarily
 24 serves breakfasts to guests and allowed under Section 59-3.5.6.B of this Code.

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

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

Department means the Department of Health and Human Services.

Establishment [:Every hostel, tourist home, boardinghouse, rooming house and guestrooms in an apartment hotel which, for compensation, provides or offers lodging or lodging and meals to transient visitors.] means a hotel or Bed and Breakfast or Short-term Residential Rental regulated under this chapter.

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

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

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

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

1. any number of people related by blood, marriage, adoption, or guardianship;

2. up to 5 unrelated people; or

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

[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.

The [county executive] Executive [,in order to implement the health standards and regulations of this chapter, is hereby authorized by law to] may adopt [such] regulations, under method (3) [of section 2A-15 of this Code], concerning the operation, maintenance [and], conduct, licensing, and license fees for [of] a [any of the types of establishments] hotel or bed and breakfast [referred to in this chapter, including provision of such licenses and license fees for such establishments as he may deem appropriate].

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

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

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

[In tourist homes, motels, and tourist cabin parks the] The register must include a record of the license plate numbers and state of registration of any automobiles or trailers [in or with which the guests are traveling] that guests are using. The owner or operator of the establishment must see that the license plate and automobile or trailer registration information is correct. A person must not occupy any room [or facility] until [after] the registration required under this section is provided. The permanent register may be in a bound book, looseleaf book, or cards. If a looseleaf book or cards are used, the pages or cards must be numbered consecutively before use and all numbered pages

or cards must be kept even though they are not used. The register [provided for] required by this section must be kept for at least 3 years and must be open to inspection upon the request of the Director or of any law enforcement officer of the county or the state.

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

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

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

Hotels.

54-5. Numbering of rooms.

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

54-6. Limitation on admission of visitors.

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

54-7. Inspection of register by county officials.

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

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

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

54-9. Parking facilities.

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

54-10. Administration and enforcement of article generally.

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

54-11. Right of entry of county officials.

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

54-12. Responsibility for compliance with article.

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

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

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

54-14. License required [Required].

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

54-15. Application.

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

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

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

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

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

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

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

54-18. Separate license required for each establishment.

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

54-19. Fees.

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

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

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

(a) Section 10-202 (keeping disorderly house);

(b) Title 12 (gaming);

(c) Title 5 (controlled dangerous substances, prescriptions, and other substances); or

(d) Section 10-201 (disturbing the public peace and disorderly conduct).

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

54-21. Procedure for issuance or denial.

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

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

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

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

54-22. Display.

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

54-22A. Complaints

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

(b) If a violation is found, the Director must issue written notice of the
violation to the owner or operator 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 54-26.

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

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

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

54-24. Expiration.

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

54-25. Renewal.

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

54-26. Revocation or suspension generally.

- (a) The [director] Director may revoke or suspend any license issued under this [division upon finding] Division if the Director finds that the owner or operator of any [establishment] hotel is in violation of any provision of this [article] Article. Any such revocation or suspension [shall] must be by written order directed to [and served upon] the owner or operator of [[such establishment]] [in the manner prescribed in subsection (c) of section 54-21] the hotel under the procedures of subsection 54-21(c). Any such notice of revocation or suspension [shall] must require the holder of the license to appear before the [director] Director and show cause why the license should not be revoked or suspended [in the manner provided above].
- (b) The Director may revoke or suspend any license issued under this Division if the Director finds that the [establishment] hotel is disruptive to the general peaceful enjoyment, dangerous to the health and safety, of the community or a nuisance because of noise or indecent or immoral

activity by any guest, owner, operator or employee. The Director may also revoke or suspend any license issued under this Chapter if the owner or operator of the [establishment] hotel has, while operating the [[establishment]] hotel, been convicted of violating:

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

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

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

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

Division 3. Health Standards and Regulations.

54-28. Water and sewer facilities.

Water and sewer facilities in every [establishment] hotel must be connected to public lines where such lines are available. [In the event no] When public sewer lines are not available, the [sewage must be collected, treated and

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

54-29. Plumbing facilities.

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

54-30. Disposal of solid waste.

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

54-31. [Screens.] Insects.

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

54-32. Minimum size of rooms.

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

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

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

54-33. Heating and ventilation.

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

54-34. Lighting.

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

54-35. Basement rooms.

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

54-36. Cellar rooms.

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

54-37. Bedding and linen.

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

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

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

54-38. [Drinking glasses.] Reserved.

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

54-39. Food, dining rooms and kitchens.

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

54-40. Maintenance of premises.

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

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

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

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

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.

(c) 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.

Approved:

Roger Berliner, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Bill 2-16

Transient Housing – Licensing and Registration

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

Fiscal Impact Statement
Council Bill 2-16
Transient Housing – Licensing and Registration

1. Legislative Summary.

Bill 2-16 defines hotel, bed and breakfast, and short term residential rental, and deletes obsolete definitions of other types of transient housing. While hotels will continue to follow current licensing requirements, the bill establishes a new method of licensing for bed and breakfast establishments and short term residential rental units, including the requirement that the Department of Health and Human Service (DHHS) establish an electronic, on-line licensing system.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

It is estimated that there are 1,400 potential short-term residential rental unit licensees in the County that would be affected by the bill. The Department does not anticipate a significant increase in the number of bed and breakfast establishments.

Expenditures

As shown in **Exhibit 1** under Number 3, the cost to implement this bill in FY18 is estimated to be \$213,947. Annual expenditures are estimated to be approximately \$211,000 beginning in FY19.

The bill requires DHHS to establish an electronic, online licensing system. Such a system does not currently exist in the Department's Licensing and Regulatory Services office. Products are being evaluated, and additional research is required to obtain a more precise cost estimate of implementing such a system. For illustrative purposes, based on a quote from Host Compliance, a vendor currently providing electronic solutions to local governments for this service, such a system could cost up to \$100,000 annually for software licensing fees.

In addition to annual software licensing fees, there would be one-time expenditures of up to \$55,000 for a contractor to develop system requirements. This estimate is based on 1,000 hours of work at \$55 per hour.

To handle complaints, track data analytics, and perform outreach and education, the Department would need one part-time Environmental Health Specialist (0.5 FTE) at an estimated cost of \$48,018 annually beginning in FY18. This estimate assumes 100 complaints are received annually, requiring an average of 3 hours to resolve, and that 15 hours of education and outreach is performed weekly. In addition, the review of annual license applications is estimated to require up to 250 hours of an Office Service Coordinator support at an estimated cost of \$8,429 (assuming \$33.71/hr). Beginning in

FY19, the Department may need a part-time Information Systems and Technology Specialist (0.5 FTE) to maintain and troubleshoot the system at an estimated annual cost of \$52,147.

Annual expenditures for outreach, printed materials, website design and content development would cost approximately \$2,500.

Revenues

Fees for short-term residential rental units would need to be established by Executive Regulation. As shown in **Exhibit 2** under Number 3, for illustrative purposes, assuming a \$100 annual fee for 1,400 short-term residential rental unit licensees, revenues would be \$140,000 annually.

Currently, the Montgomery County licensing fee for boarding houses is \$85 per year. Licensing fees in other jurisdictions that have passed similar laws include San Francisco, CA (\$50 for 2 years), and Portland, OR (\$178 for the first year and \$62 each subsequent 2 years).

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Exhibit 1. Expenditure Estimates

Estimated Expenditures	FY18	FY19	FY20	FY21	FY22	FY23	Total 6-yr
<i>Personnel Costs</i>							
Environmental Health Spec (0.5 FTEs)	\$48,018	\$48,018	\$48,018	\$48,018	\$48,018	\$48,018	\$288,108
Office Services Coordinator (250 hrs)	\$8,429	\$8,429	\$8,429	\$8,429	\$8,429	\$8,429	\$50,574
Information Systems & Tech Spec (0.5 FTEs)	\$0	\$52,147	\$52,147	\$52,147	\$52,147	\$52,147	\$260,735
Subtotal	\$56,447	\$108,594	\$108,594	\$108,594	\$108,594	\$108,594	\$599,417
<i>Operating Expenses</i>							
Annual Software Licensing Fees	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$600,000
IT Contractor for System Dev (1,000 hrs)	\$55,000	\$0	\$0	\$0	\$0	\$0	\$55,000
Outreach, printing, web design, content development	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$15,000
Subtotal	\$157,500	\$102,500	\$102,500	\$102,500	\$102,500	\$102,500	\$670,000
Grand Total	\$213,947	\$211,094	\$211,094	\$211,094	\$211,094	\$211,094	\$1,269,417
Costs based on vendor quote for electronic licensing and registration system.							
IT contractor for planning and development estimate based on 1,000 hrs of requirements @ \$55/hr							

Exhibit 2. Revenue Estimates – Short-term Residential Rental Units

Revenue Estimate	FY18	FY19	FY20	FY21	FY22	FY23	6-Yr Total
	Fee #	Revenue #	Revenue #	Revenue #	Revenue #	Revenue #	Revenue Revenue
Annual							
licensing Fee	\$100 1,400	\$140,000 1,400	\$140,000 1,400	\$140,000 1,400	\$140,000 1,400	\$140,000 1,400	\$840,000

Note: The actual licensing fee would need to be established by Executive Regulation. For illustrative purposes, this estimate assumes a \$100 licensing fee.

- 4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Establishing an online licensing process, would require new software.

As described in Number 2, this cost estimate assumes that the Department would contract with a vendor to provide this software at an estimated annual cost of up to \$100,000 for software license fees. In addition, establishing the product requirements for the online licensing software is estimated to cost up to \$55,000 in one-time expenses for a contractor in FY18; whereas, ongoing operating and maintenance of the system is estimated to cost up to \$52,147 annually in personnel costs beginning in FY19.

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Future spending is not authorized by the bill.

- 7. An estimate of the staff time needed to implement the bill.**

To handle complaints, track data analytics, and perform outreach and education, the Department would need one part-time Environmental Health Specialist (0.5 FTE) at an estimated cost of \$48,018 annually beginning in FY18. This estimate assumes 100 complaints are received annually, requiring an average of 3 hours to resolve, and that 15 hours of education and outreach is performed weekly. In addition, the review of annual license applications is estimated to require up to 250 hours of an Office Service Coordinator support at an estimated cost of \$8,429 (assuming \$33.71/hr). Beginning in FY19, the Department may need a part-time Information Systems and Technology Specialist (0.5 FTE) to maintain and troubleshoot the system at an estimated annual cost of \$52,147.

To establish applications and licenses would require approximately 80 hours of administrative staff time.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Additional time required to implement and administer the program might result in delays in customer service for existing license and regulation services.

- 9. An estimate of costs when an additional appropriation is needed.**

See Number 3.

10. A description of any variable that could affect revenue and cost estimates.

The specific requirements and specifications of the electronic online licensing product have not been determined. This cost estimate assumes that the Department would contract with a vendor to provide this software at an estimated annual cost of up to \$100,000 for software license fees, depending on product requirements.

The number of actual potential licensees is difficult to estimate and might change. Any significant change in the number of licensees would impact both revenue and cost estimates accordingly.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

More precise revenue and expenditure projections cannot be made until the licensing fees have been established, the actual potential number of licensees is known, and the costs of purchasing and implementing the electronic online licensing software are known.

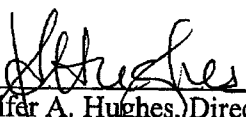
12. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

13. Other fiscal impacts or comments.

14. The following contributed to and concurred with this analysis:

Clark Beil, Licensure and Regulatory Services, DHHS
Jason Rundell, DHHS
Joshua Watters, OMB



Jennifer A. Hughes, Director
Office of Management and Budget

8/30/17
Date

Economic Impact Statement
Bill 2-16 Transient Housing – License and Registration

Background:

Bill 2-16 would revise Chapter 54 of the County Code. The revisions update the provisions for hotels, delete forms of transient housing no longer allowed by the Zoning Code (Chapter 59), establish a less burdensome method of licensing for Bed and Breakfast establishments and Short Term Residential Rental (STRR), and assign responsibilities for licensing between Executive departments. As introduced, Bill 2-16 would simplify existing requirements for hotels in more precise, concise, and decisive text. Licenses for a Bed and Breakfast would be by self-certification but subject to revocation based on substantiated complaints. The Bill intends to make the process for licensing and registration more efficient for hotels and other transient housing.

In February 2016, the County Council introduced Zoning Text Amendment 16-03 (ZTA 16-03) in conjunction with Bill 2-16 to expand the Bed and Breakfast use to allow short-term residential rentals as limited uses in many zones. Bill 2-16 anticipates the approval of ZTA 16-03, however, the enactment of Bill 2-16 does not require the approval of ZTA 16-03. 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.

The Montgomery County Planning Board recommends with ZTA 16-03 that all short-term rentals be monitored and licensed by the County and suggests an enforcement measure that would suspend a host's STRR license if at least three verified complaints against the 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 recognizing the demand for short term residential rentals and the benefit such rentals provide to both host and renters without commercializing residential neighborhoods.

1. The sources of information, assumptions, and methodologies used.

- Montgomery County Planning Board Recommendation to Council for Zoning Text Amendment 16-03, May 2017
- Sheppard, Stephen and Udell, Andrew; "Do Airbnb Properties Affect House Prices?"; Williams College Department of Economics, October 2016
- Zervas, Georgios, Proserpio, Davide, and Byers, John; "The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry", Boston University & The University of Southern California, November 2016
- Shafroth, Frank; Governing Magazine, "Airbnb Creates an Affordable-Housing Dilemma for Cities", September 2016

Economic Impact Statement
Bill 2-16 Transient Housing – License and Registration

Bill 2-16, in conjunction with ZTA No. 16-03, would allow a means for property owners to earn income through the sharing economy. It would allow for “Airbnb” or other similar short term residential rentals. Airbnb is an internet based incarnation of a bed and breakfast. The growth of peer-to-peer markets has provided a mechanism through which private individuals can enter a market as small scale, often temporary, suppliers of a good or service. 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 through any Airbnb like establishment would still be required to obtain a County license allowing “transient visitors.”

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 1,400 short-term rental listings. As part of the fiscal impact analysis completed for the bill, the Department of Health and Human Services assumes a licensing fee of approximately \$100 will accompany the registration process resulting in additional net income to the County of \$140,000.

2. A description of any variable that could affect the economic impact estimates.

Variables that could affect the economic impact estimates include:

- 1.) The number and location of STTR listings particularly those near densely populated Metro stations
- 2.) The sharing economy’s impact on housing affordability and property values in the County
- 3.) The negative externalities caused by sharing economy guests in a currently unregulated hotel industry environment
- 4.) The positive impact on the County from the sharing economy including new income streams for residents as well as encouraging tourism and its associated economic benefits
- 5.) The negative impact on County hotel revenues given additional STTR options

Stephen Sheppard and Andrew Udell note in their 2016 study “Do Airbnb Properties Affect House Prices?” that “...most policy makers appear to believe that Airbnb causes housing prices to increase.” They note as residences are held as assets and rented via Airbnb to create an income stream, this can permit speculating for potential capital appreciation as well as generating rental income during the period of ownership. The potential income and capital gains might jointly draw investors to purchase residential property not for their own use and to hold onto properties for longer because rental income obtained via Airbnb ultimately reduces the cost of ownership. Either of these mechanisms would effectively increase demand for housing and drive up the price of sales and rentals on these units.

In their 2016 paper “The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry” Georgios Zervas and colleagues attempt to quantify Airbnb's impact on local neighborhoods. Focusing on Airbnb usage in Texas, they found that a 10% increase in

Economic Impact Statement
Bill 2-16 Transient Housing – License and Registration

the number of listings available on Airbnb is associated with a 0.34% decrease in monthly hotel revenues. With municipalities struggling to balance the economic boost from the growth of home-sharing services with the pressing need for affordable housing, ZTA 16-03 is framed in a manner by the Montgomery County Planning Board to mitigate the primary concerns raised during the legislative process including (1) negative impacts on residential neighborhoods, (2) decreased supply of affordable rental housing, and (3) unfair competition with the hotel industry.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The Bill's economic impacts, both positive and negative, derive from the resulting market dynamics of the sharing economy. Potentially negative effects include widespread conversion of residential housing to short-term rentals, that when taken to extremes, results in the loss of housing for permanent residents. Turning long-term rentals into short-term rentals can change the character of the community, tighten the housing supply, and make neighborhoods less stable. Home-sharing services take apartments off the long-term rental market and are a factor in driving up rents to unaffordable levels particularly in areas like Montgomery County where housing costs are high.

Positive effects include property values may increase both because of increased demand for commercial (non-residential) space, as well as the localized provision of amenities for visitors. There are also mechanisms that may cause property values to decrease. The increase in densities that come from accommodating more people, or the negative externalities (such as noise, traffic, and safety concerns) caused by Airbnb guests might make living near concentrations of Airbnb units unpleasant. Another difficult-to-quantify but potentially significant factor would be the signal that increasing Airbnb availability might provide for neighborhood quality and subsequent gentrification. The emergence of concentrated provision of Airbnb units could itself induce speculative purchase of residential property in anticipation of subsequent capital gains. Sheppard and Udell in their study found a doubling of Airbnb listings is associated with increases of 6% to 11% in house values with other conditions remaining the same. Studies conducted in New York and Los Angeles do not necessarily provide reasonable comparable metrics for the County given the considerable differences in demographics, populations, and density variables of the cities studied.

An estimated economic impact cannot be quantified with specificity on employment, spending, savings, investment, incomes, or property values given a lack of data enumerating the resulting impacts from the sharing economies for the County. The economic impact resulting from Bill 2-16 in conjunction with ZTA 16-03 will likely be multifaceted. The analysis would need to consider whether Airbnb units have the potential to increase the County's local population, especially local tourist population, and generate local economic impact on businesses by increasing the demand for local goods and services. This may cause incomes to rise as well as increase localized provision of amenities that provide inviting goods and services to visitors. Prior research indicates the most likely effects to include increases in rental rates and property values, new income streams for residents, encouraged

Economic Impact Statement
Bill 2-16 Transient Housing – License and Registration


tourism and its associated economic benefits. Negative effects include, in extreme instances, the potential loss of housing for permanent residents, tightened housing supply, and potentially less stable neighborhoods. The extent of each of these responses and how they correlate cannot be estimated without additional County specific data enumerating the effects an estimated 1,400 available Airbnb units will have over the course of each of these possible outcomes in a newly studied landscape of sharing economies.

4. If a Bill is likely to have no economic impact, why is that the case?

See number 3.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

8/29/17

Date