



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:

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MEMORANDUM

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.¹ 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

¹ “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.

<u>This packet contains:</u>	<u>Circle #</u>
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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.**

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

29 (a) the building in which the Sharing Economy Rental is located complies
30 with all applicable zoning standards under Chapter 59 of this Code;

31 (b) the swimming pool, if provided, complies with Chapter 51 of this Code;

32 (c) the total number of guests in any rental period who are 18 years or older
33 is limited to 6;

34 (d) the total number of days with rentals in a 12-month period is limited to
35 120 days;

36 (e) rentals will only occur between the hours of 8:00 a.m. and 10:00 p.m.;

37 (f) no sleeping quarters will be offered;

38 (g) sanitation facilities operate as designed;

39 (h) if sanitation facilities are not provided, rentals are limited to 2 hours at
40 a time;

41 (i) the applicant has not been found guilty of a violation of this Chapter in
42 the past 12 months;

43 (j) all local taxes and required fees are paid in full, including the
44 admissions and amusement tax under Section 52-16A;

45 (k) the applicant is the owner or owner-authorized agent of the property;

46 (l) the applicant will post rules and regulations at the property, including
47 parking restrictions and instructions regarding the disposal of trash;

48 (m) the applicant or a designated representative is present on the property for
49 the duration of all rentals;

50 (n) a record of all rentals will be maintained and readily available for
51 inspection;

52 (o) where applicable, the following parties were notified:

- 53 (1) in a single-unit or attached unit, abutting and confronting
- 54 neighbors;
- 55 (2) in a multi-unit building, neighbors living across the hall and those
- 56 that share a ceiling, floor, and walls with the applicant’s unit;
- 57 (3) the municipality in which the residence is located;
- 58 (4) any applicable homeowner association, condominium, housing
- 59 cooperative; and
- 60 (5) the owner of the unit or the owner’s agent, if the applicant is not
- 61 the owner;
- 62 (p) the application is not prohibited by any homeowners’ association,
- 63 condominium document, or rental lease;
- 64 (q) the common ownership community fees for the dwelling unit are no more
- 65 than 30 days past due;
- 66 (r) except for persons visiting the primary resident, only registered guests
- 67 will be allowed on the property; and
- 68 (s) any online listing will include the Sharing Economy Rental license
- 69 number.

70 **25C-4. Applications.**

71 The Director must establish an electronic method of submitting, issuing,

72 renewing, denying, and revoking an application for a license through the

73 internet.

74 **25C-5. Fees.**

75 The Executive must establish annual fees for licenses under this Article by

76 regulation adopted under method (3) of Section 2A-15 of this Code. Fees

77 must not exceed an amount necessary to defray the costs of administering this

78 Chapter.

79 **25C-6. License Approval and Renewal.**

- 80 (a) The Director must:
- 81 (1) accept the self-certification of the applicant after verifying
- 82 compliance by reviewing available records;
- 83 (2) complete an inspection of the property before issuing the initial
- 84 license;
- 85 (3) approve or deny an initial license within 30 working days after
- 86 receipt of the application and all required fees unless the Director
- 87 receives a challenge to the certifications under Section 25C-7;
- 88 (4) issue the license for a term of one year, renewable for additional
- 89 one-year terms, subject to payment of the license fee and
- 90 compliance with all applicable laws and certifications required
- 91 for the license; and
- 92 (5) inspect the property every 2 years.
- 93 (b) All reports of inspections must be in writing. If the property fails
- 94 inspection, a license must not be issued or renewed until the violation
- 95 has been corrected.

96 **25C-7. Challenge to Certifications.**

- 97 (a) A challenge to any required certification made by the applicant may be
- 98 filed with the Director within 30 days after the application is filed by:
- 99 (1) a resident or owner of real property located within 300 feet of a
- 100 licensed or proposed license;
- 101 (2) the municipality in which the residence is located;
- 102 (3) any applicable homeowners association, condominium, housing
- 103 cooperative; or
- 104 (4) the owner of the unit or the owner's agent, if the applicant is not
- 105 the owner.
- 106 (b) The Director must, within 60 days after receipt of the challenge:

- 107 (1) provide notice of the challenge to the applicant;
- 108 (2) provide an opportunity for the applicant to respond to the
109 challenge;
- 110 (3) investigate the questions of fact raised by the challenge; and
- 111 (4) revoke or deny the license if the Director finds that one or more
112 facts certified by the applicant is false.

113 **25C-8. Suspension and Revocation.**

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

122 **25C-9. Appeals.**

123 Any person aggrieved by an approval, denial, or suspension of a Sharing
124 Economy Rental license may appeal the decision to the Board of Appeals.
125 The Board of Appeals must hold a hearing on the appeal within 30 days after
126 the notice of appeal has been filed and must act on the appeal within 30 days
127 after the hearing.

128 **25C-10. Effect of a revocation.**

129 For a period of 3 years after a license is revoked, the Director must not issue a
130 Sharing Economy Rental license to:

- 131 (a) the former licensee or a member of the former licensee’s
132 household; or

133 (b) any applicant for a license to use the same dwelling unit where the
134 license was revoked.

135 **25C-11. Complaints.**

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

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

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

143 **25C-12. Maintenance of premises.**

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

147 **25C-13. Report of violations of article.**

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

151 * * *

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

153 **51-1. Definitions.**

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

155 * * *

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

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

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

161 * * *

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

163 **54-1. Definitions.**

164 * * *

165 *Short-term residential rental* means the residential occupancy of a dwelling unit
166 for a fee for less than 30 consecutive days as allowed under Section [59-3.3.3.I]
167 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**

Lead Sponsor: Councilmember Jawando

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:

1 **Sec. 1. DIVISION 59-1.4 is amended as follows:**

2 **Division 1.4. Defined Terms**

3 * * *

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

9 * * *

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

11 * * *

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

13 * * *

14 **Section 3.1.6. Use Table**

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

16 modified in Overlay zones under Division 4.9.

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
* * *																								
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	3.3.3.I <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
* * *																								

17

* * *

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

19 **Division 3.3. Residential Uses**

20 * * *

21 **Section 3.3.3. Accessory Residential Uses**

22 * * *

23 **I. Sharing Economy Rental**

24 **1. Defined**

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

29 **2. Use Standards**

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

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

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

52

* * *

53

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

54

Division 8.2. Residential Floating Zones

55

* * *

56

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
* * *							

57

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

58

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

59

60

* * *

61

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

62

Division 8.3. Planned Unit Development Zones

63

* * *

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

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