

Clerk's Note: The word "will" has been added after the word "and" and before "be" on line 179. The underlining of the semi-colon on line 256 has been removed.

CORRECTED COPY

Bill No. 22-23
Concerning: Transient Lodging Facilities
– Short-Term Residential Rental
Revised: 11/1/2023 Draft No. 2
Introduced: April 18, 2023
Enacted: November 7, 2023
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Glass at the Request of the County Executive

AN ACT to:

- (1) assign enforcement responsibility to the Department of Health and Human Services for Article II (hotels) and to the Department of Housing and Community Affairs for Article III (bed and breakfasts and short-term residential rentals);
- [[(2) increase the maximum penalty for a violation of Article III of Chapter 54;]]
- [[(3)]](2) amend the application process for a bed and breakfast or short-term residential rental license, including license criteria and notice requirements;
- [[(4) clarify the process for challenging an application for bed and breakfast or short-term residential rental license;]]
- [[(5)]](3) clarify the process for suspending or revoking a bed and breakfast or short-term residential rental license;
- [[(6)]](4) clarify the process for appealing the Director's decision on a bed and breakfast or short-term residential rental license to the Board of Appeals; and
- [[(7)]](5) make other stylistic changes.

By amending

Montgomery County Code
Chapter 54, Transient Lodging Facilities
Sections 54-1, 54-2, 54-3, 54-13, 54-26, 54-43, 54-44, 54-45, 54-46, 54-47, and 54-48

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

1 **Sec. 1. Sections 54-1, 54-2, 54-3, 54-13, 54-26, 54-43, 54-44, 54-45, 54-46,**
2 **54-47, and 54-48 are amended, as follows:**

3 **Article I. In General.**

4 **54-1. Definitions.**

5 * * *

6 *Director* means the Director of the Department of Health and Human Services,
7 or the Director's designee, in Article II of this Chapter. *Director* means the Director of
8 the Department of Housing and Community Affairs, or the Director's designee, in
9 Article III of this Chapter.

10 *Department* means the Department of Health and Human Services in Article II
11 of this Chapter. *Department* means the Department of Housing and Community
12 Affairs in Article III of this Chapter.

13 * * *

14 [[*Primary Resident* means a person who regularly resides at the location
15 designated for legal purposes of obtaining a driver's license and filing tax returns or
16 any other proof of occupancy approved by the Director.]]

17 * * *

18 *Short-Term Residential Rental* means the residential occupancy of a dwelling
19 unit for a fee for less than 30 consecutive days [[by the same individuals]] as allowed
20 under Section 59-3.3.3.I of this Code.

21 * * *

22 **54-2. Authority of Executive to regulate and license.**

23 The Executive may adopt regulations, under method (3), concerning the
24 operation, maintenance, conduct, application, licensing, and license fees for a hotel,
25 short-term residential rental, or bed and breakfast.

26 **Sec. 54-3. [Guest register—Required] [[Violation of article; penalties]] Guest**
27 **register—Required.**

28 [Any person who owns or operates a hotel, in the County must maintain on the
 29 premises a permanent register containing:

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

35 The register must include a record of the license plate numbers and state of
 36 registration of any automobiles or trailers that guests are using. The owner or operator
 37 of the establishment must see that the license plate and automobile or trailer
 38 registration information is correct. A person must not occupy any room until the
 39 registration required under this section is provided. The permanent register may be in
 40 a bound book, looseleaf book, or cards. If a looseleaf book or cards are used, the pages
 41 or cards must be numbered consecutively before use and all numbered pages or cards
 42 must be kept even though they are not used. The register required by this section must
 43 be kept for at least 3 years and must be open to inspection upon the request of the
 44 Director or of any law enforcement officer of the county or the state.]

45 Any person who owns or operates a hotel, in the County must maintain on the
 46 premises a permanent register containing:

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

52 The register must include a record of the license plate numbers and state of
 53 registration of any automobiles or trailers that guests are using. The owner or operator
 54 of the establishment must see that the license plate and automobile or trailer

55 registration information is correct. A person must not occupy any room until the
 56 registration required under this section is provided. The permanent register may be in
 57 a bound book, looseleaf book, or cards. If a looseleaf book or cards are used, the pages
 58 or cards must be numbered consecutively before use and all numbered pages or cards
 59 must be kept even though they are not used. The register required by this section must
 60 be kept for at least 3 years and must be open to inspection upon the request of the
 61 Director or of any law enforcement officer of the county or the state.

62 [[A violation of any provision of Article II or Article III of this Chapter is a class
 63 A violation. However, notwithstanding Section 1-19, the maximum penalty for a civil
 64 violation of Article III is \$1,000 for an initial or repeat offense. Each day a violation
 65 continues is a separate offense.]]

66 * * *

67 **Article II. HOTELS.**

68 **Division 1. GENERALLY.**

69 * * *

70 **54-13. [Violation of article; penalties] [[Guest register – Required]] Violation of**
 71 **article; penalties.**

72 [A violation of any provision of Article II or Article III of this Chapter is a class
 73 A violation.]

74 A violation of any provision of Article II or Article III of this Chapter is a class
 75 A violation.

76 [[Any person who owns or operates a hotel in the County must maintain on the
 77 premises a permanent register containing:

- 78 (a) the name of each visitor;
- 79 (b) the residence address of each visitor, including state, city or town, street
 80 and street number or rural mail delivery route number;
- 81 (c) the number of the room or facility occupied by each visitor; and

82 (d) the date and time of registration and checkout of each visitor.

83 The register must include a record of the license plate numbers and state of
84 registration of any automobiles or trailers that guests are using. The owner or operator
85 of the establishment must see that the license plate and automobile or trailer
86 registration information is correct. A person must not occupy any room until the
87 registration required under this section is provided. The permanent register may be in
88 a bound book, looseleaf book, or cards. If a looseleaf book or cards are used, the pages
89 or cards must be numbered consecutively before use and all numbered pages or cards
90 must be kept even though they are not used. The register required by this section must
91 be kept for at least 3 years and must be open to inspection upon the request of the
92 Director or of any law enforcement officer of the county or the state.]]

93 * * *

94 **Division 2. LICENSES.**

95 * * *

96 **54-26. Revocation or suspension generally.**

97 * * *

98 (b) The Director may revoke or suspend any license issued under this
99 Division if the Director finds that the hotel is disruptive to the general
100 peaceful enjoyment, dangerous to the health and safety, of the
101 community, or is a nuisance because of noise or indecent or immoral
102 activity by any guest, owner, operator or employee. The Director may
103 also revoke or suspend any license issued under this Chapter if the owner
104 or operator of the hotel has, while operating the hotel, been convicted of
105 violating:

106 (1) the provisions of the Criminal Law Article of the Maryland Code
107 as listed in Section 54-20; or

108 * * *

109 **Article III. [BED AND BREAKFAST AND SHORT-TERM RESIDENTIAL**
110 **RENTAL] [Bed and Breakfast and Short-Term Residential Rental] BED AND**
111 **BREAKFAST AND SHORT-TERM RESIDENTIAL RENTAL.**

112 * * *

113 **54-43. [Certification] Application for a License.**

114 An application for a license to operate a bed and breakfast [license] or short-
115 term residential rental or a license renewal for either use must be signed by the
116 applicant and include the State Sales Tax and Use Registration number. The applicant
117 must [provide supporting documents as the Department may require and]] certify that:

118 [(a) the building in which the bed and breakfast license or short-term
119 residential rental is located complies with all applicable zoning standards
120 under Chapter 59 of this Code;]

121 (a) the building in which the bed and breakfast license or short-term
122 residential rental is located complies with all applicable zoning standards
123 under Chapter 59 of this Code;

124 [(a) the applicant is the owner of the dwelling unit where the bed and breakfast
125 or the short-term residential rental is located;]]

126 [(b) the total number of overnight guests in the short-term residential rental
127 who are 18 years or older is limited to 6, and the total number of overnight
128 guests over 18 years of age per bedroom is limited to 2;]

129 (b) the total number of overnight guests in the short-term residential rental
130 who are 18 years or older is limited to 6, and the total number of overnight
131 guests over 18 years of age per bedroom is limited to 2;

132 [(b) the dwelling unit where the bed and breakfast or short-term residential
133 rental is located is the primary residence of the applicant;]]

134 [(c) only habitable rooms will be used by guests;]

135 (c) only habitable rooms will be used by guests;

- 136 [(c) the building in which the bed and breakfast or short-term residential rental
- 137 is located complies with all applicable zoning standards under Chapter 59
- 138 of this Code;]]
- 139 [(d) smoke detectors in all units and carbon monoxide detectors in all units
- 140 using natural gas operate as designed;]
- 141 (d) smoke detectors in all units and carbon monoxide detectors in all units
- 142 using natural gas operate as designed;
- 143 [(d) the applicant will maintain a registry of all guests at the bed and breakfast
- 144 or the short-term residential rental, readily available for inspection by the
- 145 Department;]]
- 146 [(e) sanitation facilities operate as designed;]
- 147 (e) sanitation facilities operate as designed;
- 148 [(e) except for persons visiting the primary resident, only registered guests
- 149 under (d) will be allowed in the dwelling unit or on the property;]]
- 150 [(f) the applicant has not been found guilty of a violation of this Chapter in
- 151 the past 12 months;]
- 152 [(f) the number of registered guests in the short-term residential rental who
- 153 are 18 years or older is limited to 2 per bedroom, provided that the total
- 154 number of registered guests in the short-term residential rental must not
- 155 exceed 6;]]
- 156 [(g) all local taxes and required fees are paid in full;]
- 157 (f) all local taxes and required fees are paid in full;
- 158 [(g) only habitable rooms will be used by guests;]]
- 159 [(h) the dwelling unit where the bed and breakfast or short-term residential
- 160 rental is located is the primary residence of the applicant;]
- 161 (g) the dwelling unit where the bed and breakfast or short-term residential
- 162 rental is located is the primary residence of the applicant;

- 163 ~~[(h) smoke detectors, and carbon monoxide detectors where natural gas is~~
- 164 ~~used, operate as designed;]]~~
- 165 [(i) the applicant is the owner or owner-authorized agent of the facility;]
- 166 ~~(h) the applicant is the owner or owner-authorized agent of the facility;~~
- 167 ~~[(i) sanitation facilities operate as designed;]]~~
- 168 [(j) the applicant posted rules and regulations inside the rental, including
- 169 contact information for a representative designated for emergency
- 170 purposes;]
- 171 ~~(i) the applicant posted rules and regulations inside the rental, including~~
- 172 ~~contact information for a representative designated for emergency~~
- 173 ~~purposes;~~
- 174 ~~(j) notwithstanding section 54-45(d), the applicant has not been found guilty~~
- 175 ~~of a violation of this Chapter in the past 36 months;~~
- 176 [(k) the designated representative resides within 15 miles of the unit and be
- 177 accessible for the entirety of any contract where the primary resident is
- 178 not present;]
- 179 ~~(k) the designated representative resides within 15 miles of the unit and will~~
- 180 ~~be accessible for the entirety of any contract where the primary resident~~
- 181 ~~is not present;~~
- 182 ~~[(k) all local taxes and required fees are paid in full;]]~~
- 183 [(l) a record of all overnight visitors will be maintained and readily available
- 184 for inspection;]
- 185 ~~(l) a record of all overnight visitors will be maintained and readily available~~
- 186 ~~for inspection;~~
- 187 ~~[(l) a representative designated for emergency purposes, identified by name,~~
- 188 ~~address, and phone number, resides within 15 miles of the unit and will~~
- 189 ~~be available to the Department for the entirety of any contract whenever~~

190 the owner is not present;]]

191 [(m) where applicable, the following parties were notified:

- 192 (1) in a single-unit or attached unit, abutting and confronting
- 193 neighbors;
- 194 (2) in a multi-unit building, neighbors living across the hall and those
- 195 that share a ceiling, floor, and walls with the applicant’s unit;
- 196 (3) the municipality in which the residence is located;
- 197 (4) any applicable homeowner’s association, condominium, housing
- 198 cooperative; and
- 199 (5) the owner of the unit or the owner’s rental agent, if the applicant is
- 200 not the owner;]

201 (m) where applicable, the following parties were notified:

- 202 (1) in a single-unit or attached unit, abutting and confronting
- 203 neighbors;
- 204 (2) in a multi-unit building, neighbors living across the hall and those
- 205 that share a ceiling, floor, and walls with the applicant’s unit;
- 206 (3) the municipality in which the residence is located;
- 207 (4) any applicable homeowners association, condominium, housing
- 208 cooperative; and
- 209 (5) the owner of the unit or the owner’s rental agent, if the applicant is
- 210 not the owner;

211 [(m) the applicant posted rules and regulations inside the dwelling unit,
 212 including the name, address, and phone number for the representative
 213 designated for emergency purposes;]]

214 [(n) the application is not prohibited by any homeowner’s association or
 215 condominium document, or a rental lease;]

216 (n) the application is not prohibited by any homeowners association or

- 217 condominium document, or a rental lease;
- 218 [(n) where applicable, the applicant has notified the following parties of the
- 219 application and the procedure for challenging the application before the
- 220 Director:
- 221 (1) in a single-unit or attached unit, abutting and confronting
- 222 neighbors;
- 223 (2) in a multi-unit building, neighbors living across the hall and those
- 224 that share a ceiling, floor, and walls with the applicant's unit;
- 225 (3) the municipality in which the bed and breakfast or short-term
- 226 residential rental is located; and
- 227 (4) any applicable homeowner's association, condominium, housing
- 228 cooperative.]]
- 229 [(o) the common ownership community fees for the dwelling unit are no more
- 230 than 30 days past due;]
- 231 (o) the common ownership community fees for the dwelling unit are no more
- 232 than 30 days past due;
- 233 [(o) the use of the dwelling unit as a bed and breakfast or short-term
- 234 residential rental is not prohibited by any homeowner's association or
- 235 condominium document, or a rental lease;]]
- 236 [(p) except for persons visiting the primary resident, only registered guests
- 237 will be allowed on the property; and]
- 238 (p) except for persons visiting the primary resident, only registered guests
- 239 will be allowed on the property; and
- 240 [(p) the common ownership community fees for the bed and breakfast or
- 241 short-term residential rental are no more than 30 days past due;]]
- 242 (q) any [on-line] online rental listing will include the short-term residential
- 243 rental license number[.]]]; and]].

244 [(r) the dwelling unit will not be used as a short-term residential rental for
 245 more than 120 days in a calendar year when the property owner is not
 246 physically present in the dwelling unit.]]

247 **54-44. Applications.**

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

251 **54-45. License Approval and Renewal.**

252 The Director [must]:

253 (a) [accept the self-certification of the applicant after verifying compliance
 254 by reviewing available records] must review the application, including
 255 supporting documents provided by the applicant, for conformance with
 256 this Chapter and all other applicable laws and regulations;

257 (b) may inspect the property;

258 ~~[(b)]~~(c) must approve or deny a license or a license renewal [within 15 working]
 259 no earlier than 30 and no later than 60 days after receipt of [the] a
 260 completed application and all required fees unless the Director receives a
 261 challenge to the [certifications] application under Section 54-46; [[and]]

262 (d) must not deny a license for the sole reason that an applicant was operating
 263 without a license, if it is the applicant's first time receiving such a
 264 violation; and

265 ~~[(c)]~~[(d)] (e) must, if the license or license renewal is approved:

266 (1) issue the license for a term of one year, renewable for additional
 267 one-year terms, subject to re-application, payment of the license
 268 fee, and compliance with all applicable laws and certifications
 269 required for the license[.]; and

270 (2) provide written notice to the parties listed in section [[54-43(n)]]

271 54-43(m) of the issuance of the license and the procedure to file an
 272 appeal with the Board of Appeals.

273 **54-46. Challenge to [Certifications] Applications.**

274 (a) Within 30 days after the application is filed, a [A] challenge [to any
 275 required certification made by the applicant] may be filed with the
 276 Director [within 30 days after the application is filed] by: [[any party
 277 entitled to notice under section 54-43(n).]]]:

- 278 (1) a resident or owner of real property located within 300 feet of a
- 279 licensed or proposed license;
- 280 (2) the municipality in which the residence is located;
- 281 (3) any applicable homeowners association, condominium, housing
- 282 cooperative; or
- 283 (4) the owner of the unit or the owner’s rental agent, if the applicant is
- 284 not the owner.]

- 285 (1) a resident or owner of real property located within 300 feet of a
- 286 licensed or proposed license;
- 287 (2) the municipality in which the residence is located;
- 288 (3) any applicable homeowners association, condominium, housing
- 289 cooperative; or
- 290 (4) the owner of the unit or the owner’s rental agent, if the applicant is
- 291 not the owner.

- 292 (b) The Director must, within 60 days after receipt of the challenge:
- 293 (1) provide notice of the challenge to the applicant;
- 294 (2) provide an opportunity for the applicant to respond to the
- 295 challenge;
- 296 (3) investigate [the] any question of fact raised by the challenge; [and]
- 297 (4) [revoke] approve or deny the license or license renewal after

298 reviewing the application, including supporting documents
 299 provided by the applicant and challenger, for conformance with
 300 this Chapter and all other applicable laws and regulations; and [if
 301 the Director finds that one or more facts certified by the applicant
 302 is false]

303 (5) if the license or license renewal is approved:

304 (i) issue the license for a term of one year, renewable for
 305 additional one-year terms, subject to re-application,
 306 payment of the license fee, and compliance with all
 307 applicable laws and certifications required for the license;
 308 and

309 (ii) provide written notice to the parties listed in section [[54-
 310 43(n)]] 54-43(m) of the issuance of the license and the
 311 procedure to file an appeal with the Board of Appeals.

312 **54-47. Suspension and Revocation.**

313 (a) [The license must be suspended for any applicant receiving at least three
 314 complaints that are verified as a violation of the license or of the County
 315 Code within any 12-month period.] The Director may suspend or revoke
 316 any license issued under this Article if the Director finds that the licensee:

317 (1) has violated this Chapter or any other applicable law or regulation;
 318 ~~[(2) has operated, or permitted to be operated, the bed and breakfast or~~
 319 ~~short-term residential rental in a manner that is disruptive to the~~
 320 ~~general peaceful enjoyment of the community, dangerous to the~~
 321 ~~health and safety of the community, or is a nuisance because of~~
 322 ~~noise or other activity; or]~~

323 ~~[(3)](2)~~ has been convicted of violating any of the provisions of the
 324 Criminal Law Article of the Maryland Code listed in in Section 54-

325 20 while operating the bed and breakfast or short-term residential
326 rental[[:]]; or

327 (3) has repeatedly operated in a manner that is dangerous to the health
328 and safety of the community or is a nuisance because of noise or
329 other activity, as verified by the Department.

330 (b) [Renewal or reinstatement of licenses must follow procedures established
331 by the Director] Prior to any suspension or revocation, the Director may
332 require the holder of the license to appear before the Director and show
333 cause why the license should not be suspended or revoked.

334 **54-48. Appeals.**

335 Any person aggrieved by [an approval] the issuance, renewal, denial, revocation
336 or suspension of a bed and breakfast license or short-term rental license may appeal
337 the Director’s decision to the Board of Appeals within 30 days of the Director’s
338 decision, regardless of whether a challenge to the application was filed under Section
339 54-46. [The Board of Appeals must hold a hearing on the appeal within 60 days after
340 the notice of appeal has been filed, and must act on the appeal within 30 days after the
341 hearing.]

342 * * *

343 **Sec. 2. Effective Date.** This Act takes effect on July 1, 2024.

Approved:


Evan Glass, President, County Council

November 7, 2023

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date