



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

March 8, 2016

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 16-03

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 16-03 at our regular meeting on March 3, 2016. By a vote of 4:0 (Commissioner Dreyfuss absent from the room), the Planning Board provides the following comments on the text amendment to amend the definition and development standards of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. The Board understands that ZTA 16-03 is attempting to regulate new short term tenancies such as Airbnb, but believes that very little opportunity was provided for the community to discuss potential mitigating measures associated with permitting short term residential rental in all zones as a limited use, including: occupancy limits (number of persons per bedroom, for example), parking requirements, and liability insurance. Should the County Council decide to move forward with this legislation at this time, the Board believes that the approach suggested in the technical staff report would be a better starting point.

The technical staff report states that the short term rental of residential property should not be regulated as a Bed and Breakfast use, but as an accessory residential use. This would allow the “spirit” of the current Bed and Breakfast definition, which allows the use only in an owner-occupied detached house, and a number of the existing use standards (for example, minimum lot area, the number of guest rooms per a specific lot area) to be maintained. Technical staff also believes that the current requirement for a bed and breakfast to obtain conditional use approval in the smaller lot R-90 and R-60 zones is a good one and should be retained. A Bed and Breakfast is categorized under the Commercial Use Group as “Lodging” and should remain as such. Other forms of short term rental should be considered “accessory” to the primary residential use of a property and, therefore, established under the “Accessory Residential Uses” use group of Section 59-3.1.6, Use Table. Staff also recommends that short

term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per month (14 days) and per year (90 days as a recommended starting point), and be monitored and licensed by the County. The technical staff report further recommends that the permanent resident (the property owner or tenant who “hosts” the short term rental of the unit) must reside in the dwelling unit at least 6 months in a calendar year. The timeframes associated with staff’s comments are only stated as place holders for continued discussions. Staff’s intent is to strike a balance: accommodating the demand for short term tenancy of residential property without commercializing residential neighborhoods.

The technical staff report further recommends that the Bed and Breakfast standards remain as currently provides (Pre-ZTA 16-03), recognizing, however, that these standards may be in need of some updating.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, March 3, 2016.



Casey Anderson
Chair

CA:GR



Zoning Text Amendment (ZTA) No. 16-03, Land Use – Bed and Breakfast



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Completed: 02/25/16

Description

Zoning Text Amendment (ZTA) No. 16-03 would amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. Currently, a Bed and Breakfast requires conditional use approval in the R-90 and R-60 zones and is not allowed in the R-40, Residential Townhouse, Residential Multi-Unit zones and the CR zone. The ZTA has the intent of expanding the opportunities for short-term tenancy in the County.

Summary

Staff provides the following comments on ZTA No. 16-03 to amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. These modifications generally allow the short-term rental or use of residential and mixed use property. Staff is concerned that the relaxation of the duration of tenancy requirements for a Bed and Breakfast use could impact the character of existing residential neighborhoods. Staff believes that, generally, the short term rental or use of residential property should be regulated separate from a Bed and Breakfast use, thereby maintaining the “spirit” of the current Bed and Breakfast use and definition (to be allowed only in an owner-occupied detached house), including many of the existing use standards. Staff also believes that the current requirement for conditional use approval in the smaller lot R-90 and R-60 zones should be retained. A Bed and Breakfast is categorized under the Commercial Use Group as “Lodging” and should remain as such. Other forms of short term rental should be considered “accessory” to the primary residential use of a property and therefore established under the “Accessory Residential Uses” use group of Section 59-3.1.6, Use Table. Staff also recommends that short term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per month (14 days) and per year (90 days as a recommended starting point), and be monitored and licensed by the County. Staff further recommends that the permanent resident, (the property owner or tenant who “hosts” the short term

rental of the unit) must reside in the dwelling unit at least 6 months in a calendar year. The timeframes associated with staff's comments are only stated as place holders for continued discussions. Staff's intent is to strike a balance: recognizing the demand for short term tenancy of residential property without commercializing residential neighborhoods.

Staff recommends that the Bed and Breakfast standards revert to its current provisions-Pre-ZTA 16-03. Attachment 2 depicts a draft ZTA that staff would support reflecting a new short-term tenancy provision.

Background/Analysis

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.

ZTA No. 16-03 would allow a means for property owners to earn income through the "sharing economy". In particular, it would allow for "Airbnb" or other similar short term residential rentals. Airbnb is an internet based incarnation of a bed and breakfast. 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 to Airbnb users would still be required to obtain a County license allowing "transient visitors."

Bed and Breakfast Standards

ZTA 16-03 would revise the standards for a Bed and Breakfast. Currently, there are minimum lot size requirements for a Bed and Breakfast (In the Agricultural, Rural Residential, and Residential zones, the minimum lot area is the greater of 9,000 square feet or the minimum lot area for a detached house building type in the zone. In these same zones, on a lot of less than 2 acres, a maximum of 3 bedrooms may be designated as guest rooms for which compensation is charged). Those limits would be eliminated under ZTA 16-03. There would be two new standards: 1) the number of people allowed would be limited to 5 unrelated people or one family of any size; and 2) the dwelling must be the primary residence of the licensee. Also, the time period a guest can remain in a Bed and Breakfast in one visit is proposed to increase from a maximum of 14 days to 30 days.

The County Code requires the licensing of all transient housing. ZTA 16-03 is being introduced in conjunction with Bill 2-16. Bill 2-16 would update the licensing requirements for all transient housing, including a Bed and Breakfast.

Currently, a Bed and Breakfast is allowed in the AR, R, RC, RNC, RE-2, RE-2C, RE-I, R-200, CRN, CRT, GR, and NR zones as a limited use. It is also currently allowed as a conditional use in the R-90 and R-60 zones. In addition to the zones where it is currently allowed as a limited use, ZTA 16-03 would also allow it as a limited use in the R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20, R-10, CR, RT-6.0, RT-8.0, RT-10.0, RT-12.5, RT-15.0, R-H, PD, T-S, PNZ, and PCC zones.

ZTA No. 16-03 Provisions and Staff Comments

ZTA No. 16-03 proposes to amend the definition of a Bed and Breakfast and allow a Bed and Breakfast as a limited use in all residential and mixed-use (Commercial/Residential) zones. These modifications generally allow the short-term residential rental of residential and mixed use property. Staff is concerned that the relaxation of the duration of tenancy requirements for a Bed and Breakfast use could impact the character of existing residential neighborhoods.

Staff believes that, generally, the short term rental of residential property should be regulated separate from the current Bed and Breakfast use, thereby maintaining the “spirit” of the current Bed and Breakfast definition (to be allowed only in an owner-occupied detached house), and a number of the existing use standards (for example, minimum lot area, the number of guest rooms per a specific lot area). Staff also believes that the current requirement for conditional use approval in the smaller lot R-90 and R-60 zones should remain. A Bed and Breakfast is categorized under the Commercial Use Group as “Lodging” and should remain as such. Other forms of short term rental should be considered “accessory” to the primary residential use of a property and therefore established under the “Accessory Residential Uses” use group of Section 59-3.1.6, Use Table (establish the name- “Short-Term Residential Tenancy”, and define). Staff also recommends that short term residential occupancy of a dwelling or room be restricted to a maximum specified number of days per month (14 days) and per year (90 days as a recommended starting point), and be monitored and licensed by the County. Staff further recommends that the permanent resident, (the property owner or tenant who “hosts” the short term rental of the unit) must reside in the dwelling unit at least 6 months in a calendar year. The timeframes associated with staff’s comments are only stated as place holders for continued discussions. The intent is to strike a balance: recognizing the demand for short term tenancy of residential property without commercializing residential neighborhoods. (In San Francisco, for example, a property owner or tenant, can rent out their house or apartment for periods of fewer than 30 days for a maximum of 90 days a year; if the primary resident remains on-site, there is no limitation). Staff’s research has shown short term rental limits ranging from 17 rental periods a year (with no more than one rental within a seven day period) up to 95 days a year (See Attachments 3 & 4 for additional short-term tenancy requirements in various jurisdictions).

Short-term tenancy vs. Bed and Breakfast Lodging

In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other lodging uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they differ in their requirement for presence of the owner/operator on-site. *ZTA 16-03 would eliminate the requirement for owner occupancy for a Bed and Breakfast use but replaces it with a standard that requires the dwelling unit to be the primary residence of the bed and breakfast licensee.*

Bed and Breakfast means a detached house that is owner-occupied with no more than 5 guest rooms for rent and customarily serves breakfasts to guests. It is further categorized under the Lodging use group which means *a building used for the short-term overnight accommodation of paying guests*. Bed and Breakfast is a limited use in most Residential Detached, Rural Residential and Agricultural Reserve zones and requires a conditional use permit in the smaller lot R-60 and R-90 zones. Use standards are in place to address a number of potential issues including but not limited to compatibility with neighboring properties, number of guest nights allowed per visit, parking, number of guest rooms per a specific lot area, and under the conditional use standards, adverse impact limitations. Staff is concerned that eliminating the conditional use requirement for a Bed and Breakfast in the smaller lot R-90 and R-60 zones could impact the case-by-case mitigation measures of the Hearing Examiner to address potential neighborhood character impacts for a use that is commercial in nature. As stated in the section above, staff believes that short-term rental or use of residential property should be regulated separate from the bed and breakfast use. Regulations for short term tenancy should include the establishment of standards minimizing potential impacts to residential neighborhoods by limiting the number of short term (under 30 days) rental days permitted per year and per month.

Conclusion

Widespread conversion of residential housing to short-term rentals, when taken to extremes, could result in the loss of housing for permanent residents. But, 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. This has led the Council to work toward strengthening short-term rental laws, and prompted an examination of parameters to regulate short-term rentals and established a pathway to legalize this activity. ZTA 16-03 attempts to accomplish these goals by modifying the definition of Bed and Breakfast to encompass all types of short-term tenancy. However, staff believes that a clearer method of accomplishing this goal is to address the use as accessory to the Residential use category (as a new defined use - "Short-Term Tenancy") thereby maintaining the integrity of the Bed and Breakfast use standards and definition. Staff recommends that the Bed and Breakfast standards revert to its current provisions. Attachment 2 depicts a draft of a ZTA that staff would support reflecting a new short-term tenancy provision.

Attachments

1. ZTA No. 16-03 as introduced
2. Potential language to be included in ZTA No. 16-03 or a separate ZTA
3. Short-Term Tenancy Summary Matrix
4. Short Term Residential Rentals in Other Jurisdictions

ATTACHMENT 1

Zoning Text Amendment No.: 16-03

Concerning: Land Use – Bed and
Breakfast

Draft No. & Date: 1 – 01/06/16

Introduced: February 2, 2016

Public Hearing:

Adopted:

Effective:

Ordinance No.:

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

By: Councilmember Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow a Bed and Breakfast as a limited use in all Residential and all Commercial/Residential zones;
- revise the definition and requirements for a Bed and Breakfast;
- delete the requirements for a Bed and Breakfast as a conditional use; and
- generally amend the provisions for a Bed and Breakfast

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

DIVISION 59-3.1.	“Use Table”
Section 59-3.1.6.	“Use Table”
DIVISION 59-3.5.	“Commercial Uses”
Section 59-3.5.6.	“Lodging”
DIVISION 8.2.	“Residential Floating Zone”
Section 8.2.3.	“Use Table for the RT and R-H zones
DIVISION 8.3.	“Planned Unit Development Zones”
Section 8.3.2.	“PD Zone”

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:

15 **1. Defined**

16 Bed and Breakfast means [a detached house that is owner-occupied
17 with no more than 5 guest rooms for rent and customarily serves
18 breakfasts to guests.] a dwelling unit that is available for lodging. A
19 Bed and Breakfast includes a dwelling unit that makes available the
20 entire dwelling unit or any portion of the unit for rental periods. Meals
21 may be provided to overnight guests when the provider satisfies the
22 requirements of Chapter 15.

23 **2. Use Standards**

- 24 a. Where a Bed and Breakfast is allowed as a limited use, it must
25 satisfy the following standards:
- 26 i. A Bed and Breakfast is prohibited in a dwelling unit [that
27 also provides guest rooms for roomers, or] in a Farm
28 Tenant Dwelling, or on a site that includes an Accessory
29 Apartment.
- 30 ii. [The display of a sign must include the official house
31 number.]
- 32 [iii. Breakfast is the only meal that may be served and only
33 to] The overnight guests on any night must satisfy the
34 definition of one household.
- 35 [iv]iii. A guest must only remain in a Bed and Breakfast for a
36 maximum of [14] 30 days in any one visit.
- 37 [v]iv. A record of all overnight visitors must be maintained.
- 38 [vi]v. The Bed and Breakfast must be [registered with DPS]
39 licensed under Chapter 54.
- 40 [vii. In the Agricultural, Rural Residential, and Residential
41 zones, the minimum lot area is the greater of 9,000

42 square feet or the minimum lot area for a detached house
43 building type in the zone.]

44 [viii. In the Agricultural, Rural Residential, and Residential
45 zones, on a lot of less than 2 acres, a maximum of 3
46 bedrooms may be designated as guest rooms for which
47 compensation is charged.]

48 vi. The dwelling unit must be the primary residence of the
49 bed and breakfast licensee.

50 [ix]vii. In the Agricultural and Rural Residential zones, a
51 Bed and Breakfast may be allowed in an accessory
52 building designated as historic on the Master Plan for
53 Historic Preservation.

54 [x]viii. [Parking must be located behind the front building
55 line] On-site parking that satisfies the property's zoning
56 is required.

57 [xi]ix. In the AR zone, this use may be prohibited if not
58 accessory to Farming under Section 3.1.5, Transferable
59 Development Rights.

60 [b. Where a Bed and Breakfast is allowed as a conditional use, it
61 may be permitted by the Hearing Examiner under all limited
62 use standards, Section 7.3.1, Conditional Use, and the following
63 standards:

64 i. The Hearing Examiner may deny a petition for a Bed and
65 Breakfast with frontage on and access to a road built to
66 less than primary residential standards if it finds that road
67 access will be unsafe and inadequate for the anticipated

68 traffic to be generated or the level of traffic would have
 69 an adverse impact on neighboring residences.
 70 ii. If there is inadequate space for parking behind the front
 71 building line, the Hearing Examiner may approve an
 72 alternative placement for parking.
 73 iii. Screening under Division 6.5 is not required.
 74 iv. To avoid an adverse neighborhood impact and assure that
 75 the residential use remains predominant, the Hearing
 76 Examiner may limit the number of transient visitors who
 77 may be accommodated at one time or the number of
 78 visits in any 30-day period.]

79 **Sec. 3. DIVISION 59-8.2 is amended as follows:**

80 **Division 8.2. Residential Floating Zones**

81 * * *

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

- 83 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
 84 B. The following Use Table identifies uses allowed in each zone. Uses may be
 85 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
* * *							
COMMERCIAL							
* * *							
Eating and Drinking	3.5.3						
Restaurant	3.5.3.B						C ⁷
<u>Lodging</u>	<u>3.5.6</u>						
<u>Bed and Breakfast</u>	<u>3.5.6.B</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Office and Professional	3.5.8						
* * *							

86 **Sec. 4. DIVISION 59-8.3 is amended as follows:**

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

88 * * *

89 **Section 8.3.2. PD Zone**

90 * * *

91 **B. Uses**

92 * * *

93 **2. Commercial Uses**

94 * * *

95 d. A Bed and Breakfast is allowed as a limited use under Section
96 3.5.6.B.

97 * * *

98 **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the
99 date of Council adoption.

100

101 This is a correct copy of Council action.

102

103 _____

104 Linda M. Lauer, Clerk of the Council

ATTACHMENT 2

Zoning Text Amendment No.: 16-XX
Concerning: Accessory Residential
Uses – Tenancy Duration
Draft No. & Date: 1 – 2/25/16
Introduced:
Public Hearing:
Adopted:
Effective:
Ordinance No.:

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

By:

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- define “short-term tenancy”;
- establish limited use standards for short-term tenancy; and
- to generally allow the short-term rental or use of residential property

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

DIVISION 59.1.4	“Defined Terms”
Section 59.1.4.2	“Specific Terms and Phrases Defined”
Division 59.3.1.	“Use Table”
DIVISION 59.3.3	“Residential Uses
Section 59.3.3.3	“Accessory Residential Uses”
DIVISION 59.8.2	“Residential Floating Zones”
DIVISION 59.8.3.	Planned Unit Development 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:

17 * * *

18 **Sec. 3. DIVISION 59.3.3 is amended as follows:**

19 DIVISION 59.3.3. Residential Uses

20 * * *

21 **Section 59-3.3.3. Accessory Residential Uses**

22 * * *

23 **I. Short-Term Tenancy**

24 **1. Defined**

25 Short-Term Tenancy means the residential occupancy of a dwelling unit by a
26 household for less than a month. Short-Term Tenancy is not a Bed and
27 Breakfast.

28 **2. Use Standards**

29 Where Short-Term Tenancy is allowed as a limited use, it must satisfy the
30 following standards:

- 31 a. Short-Term Tenancy is prohibited in a dwelling unit in a Farm
32 Tenant Dwelling or on a site that includes an Accessory
33 Apartment.
- 34 b. The property owner or tenant must reside in the dwelling unit a
35 minimum of 6 months in a calendar year.
- 36 c. The property can only be used for Short-Term Tenancy a
37 maximum of 14 days in a month and 90 days in a calendar year.
- 38 d. The use must be licensed under Chapter 54.
- 39 e. A record of all overnight visitors must be maintained.

40

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

42 **Division 8.2. Residential Floating Zones**

43 * * *

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

- 45 A. Section 3.1.1 through Section 3.1.4 apply to the Use Table in Section 8.2.3.
 46 B. The following Use Table identifies uses allowed in each zone. Uses may be
 47 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0	R-H
* * *							
Accessory Residential Uses	<u>3.3.3</u>						
* * *							
<u>Short-Term Tenancy</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>
* * *							

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

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

50 * * *

51 **Section 8.3.2. PD Zone**

52 * * *

53 **B. Uses**

54 * * *

55 **1. Residential Uses**

56 * * *

- 57 **c. Short-Term Tenancy is allowed as a limited use under Section**
 58 **3.3.3.I.**

59 * * *

60

61

- 62 **Sec. 6. Effective date.** This ordinance becomes effective 20 days after the
 63 date of Council adoption.

64

65 This is a correct copy of Council action.

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67 _____

68 Linda M. Lauer, Clerk of the Council

ATTACHMENT 3

Jurisdiction	Name of Use	Owner or Tenant Occupancy Requirement	Limitation on # of days per years the unit can be rented	Liability Insurance Required	Limitation on # of bedrooms rented or # occupants allowed	Geographic/ Spacing Limitations
San Francisco	Short-Term Residential Rental	Yes	Unlimited if resident is present; 90 nights if resident <i>not</i> present	Yes, or must be provided by hosting platform		
Jersey City	Short Term Rental	No	No (but a license is required if 1 person offers 5+ units)	No		
Portland	Accessory Short Term Rental	Yes	<ul style="list-style-type: none"> Up to 2 bedrooms: unlimited if resident is present and 95 days if resident is <i>not</i> present 3-5 bedrooms: conditional use review required 	No	5 bedrooms; # of occupants may not exceed number allowed for household	The number of dwelling units in a multi-dwelling structure or a triplex that can have an accessory short-term rental is limited to 1 unit or 25 percent of the total number of units in the structure, whichever is greater
Nashville	Short Term Rental Property	No	No	Yes	2x the number of bedrooms + 4	3% cap on percentage of non-owner occupied single and two family rentals in each census tract
DC	Home Occupation/ Bed and Breakfast?	Yes, unless property owner gets a use variance & general business license	No?		2 renters, although 3 or more renters may be allowed with approval from Board of Zoning Adjustment and a general business license	
New York	?	Yes	No limitation, but owner must be present			
Philadelphia	Limited Lodging	No?	180		Up to 3 persons (including owner & renters) unrelated by blood, marriage, etc	

Short Term Residential Rentals in Other Jurisdictions

The laws governing short term residential rentals in the 6 jurisdictions described in this document are varied, but some common elements that are regulated in several jurisdictions include:

- A resident occupancy requirement & occupancy requirement during the rental period
- A limitation on the number of days per year the unit can be rented
- A liability insurance requirement
- A limitation on the number of bedrooms rented or the number of occupants allowed or the number of simultaneous rentals to more than one party under separate contracts
- A geographic or spacing requirement
- A noticing requirement to neighbors

San Francisco

San Francisco defines the use *Short-Term Residential Rental* as:

A Tourist or Transient Use where all of the following conditions are met:

- (a) The Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit;*
- (b) The Permanent Resident is a natural person;*
- (c) The Permanent Resident has registered the Residential Unit and maintains good standing on the Department’s Short-Term Residential Rental Registry; and*
- (d) The Residential Unit is not subject to the Inclusionary Affordable Housing Program.... Or any other applicable law or regulation prohibits the permanent resident from subleasing, renting or otherwise allowing Short-Term Residential Rental of the Residential Unit.*

The use is subject to the following:

- A resident can rent out a portion of their unit while they are present for an unlimited number of nights per year and they can rent out their entire unit (or a portion) while they are *not* present for a maximum of 90 nights per year (the wording of the law requires that the resident occupy the dwelling for a minimum number of days during each calendar year).
- Permanent resident maintains liability insurance appropriate to cover the Short-Term Residential Rental use in the aggregate of not less than \$500,000 or conducts each Short-Term Residential Rental transaction through a Hosting Platform that provides equal or greater coverage.
- Residential Unit must be registered on the Short-Term Residential Registry
- Permanent Resident includes the Department-issued registration number on any Hosting Platform listing or other listing offering the Residential Unit for use as a Short-Term Residential Rental

- For units subject to rent control provisions, the Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent than the rent the Resident is paying to any landlord per month

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances14/o0218-14.pdf>

Jersey City

Jersey City defines the use *Short Term Rental* as:

The accessory use of a Dwelling Unit for occupancy by someone other than the unit's owner or permanent resident for a period of less than 30 consecutive days.

Short Term Rentals are permitted as an accessory use to a permitted principal residential use in all zoning districts and redevelopment plan areas where residential uses are permitted provided:

- The person offering a Dwelling Unit for Short-Term Rental use must be the owner or lessee of the residence in which the Short-Term Rental activity occurs.
- If one person offers more than 5 separate dwelling units for short-term rental use in the city, a license is required.
- No signage identifying the Short-Term Rental use is allowed.
- The use be conducted in a manner that does not materially disrupt the residential character of the neighborhood.
- No equipment or process shall be used in the Short-Term rental which creates glare, fumes, odors, or other nuisance factors detectable to the human senses outside the lot on which the Short-Term Rental is conducted.

[http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2015/2015_Ordinance_2nd_Reading/Agenda%20Document\(19\).pdf](http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2015/2015_Ordinance_2nd_Reading/Agenda%20Document(19).pdf)

Portland

Portland defines the use *accessory short term rental* as “where an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for fewer than 30 consecutive days.”

Rentals of 6 or more guestrooms at one time are not considered accessory short-term rentals. The regulations allow accessory short term rentals in houses, attached houses, duplexes, manufactured homes on its own lot, and accessory dwelling units. Bedrooms in legal detached accessory structures can also be rented to overnight guests and count towards the maximum size limit. All residents with accessory residential units must register as a business.

There are two types of accessory short term rentals, each with a specific permitting process:

1. Type “A” Accessory Short-Term Rental is one where the resident rents no more than 2 bedrooms to overnight guests. Property owners are required to provide written permission for the tenant to apply for the required permit. The use must be accessory to a *Household Living* use.
 - Permit required, includes safety inspection and neighborhood notification.
 - The resident of the short-term rental must reside in the dwelling unit where the bedrooms are rented at least 9 months of each year. There are no limitations to the number of nights the bedrooms may be used as short-term rentals. However, there is a maximum of 95 days (3 months) per year when the resident does not need to be present with the overnight guests.
 - A Type B home occupation (a home business), which allows either one nonresident employee or up to eight customers per day, is prohibited with a Type A accessory short-term rental. Type A home occupations, where no employees or customers come to the site, are allowed.
 - In a Multi-Dwelling Structure
 - Residents must self-certify that 1) each bedroom being rented has a smoke detector that is interconnected with a smoke detector in an adjacent hallway, and 2) each bedroom is located on a floor equipped with a functioning carbon monoxide alarm if the dwelling unit has a carbon monoxide source.
 - The number of dwelling units in each multi-dwelling structure or a triplex that can have an accessory short-term rental is limited to 1 unit, or 25 percent of the total number of units in the structure, whichever is greater.
2. Type “B” Accessory Short-Term Rental is one where the resident rents between 3 and 5 bedrooms to overnight guests. A Land Use Conditional Use Review application is required along with a site inspection or self-certification for the same safety features as the Type A rental.

<https://www.portlandoregon.gov/bds/article/518139>

<https://www.portlandoregon.gov/bps/article/501886>

Nashville

Nashville defines the use *Short Term Rental Property* (STRP) as a residential dwelling unit, containing not more than four sleeping rooms, that is used and / or advertised for transient occupancy. Owners of Short-Term Rental Properties (STRPs), are required to obtain an operating permit. This law applies to all properties (including rooms and guest houses) rented for less than 30 consecutive days to the same occupant.

There are 3 types of STRPs:

1. Type 1: Owner-Occupied (single-family, multifamily or duplex)
 - Are owner-occupied or associated with an owner-occupied principal residence on the same lot.

- Include the rental of an entire dwelling unit to a single party of individuals, or If only part of the unit, include at a minimum a sleeping room (with bathroom), is limited to a single party of individuals, and the owner is generally present during the rental
2. Type 2: Not Owner-Occupied (single-family or duplex)
 - The law places a 3% cap on the percentage of non-owner occupied single and two family STRPs allowed to legally operate in each census tract of the county.
 3. Type 3: Not Owner-Occupied Multifamily (Multifamily apartments and condominiums)
 - Are not owner-occupied or associated with an owner-occupied principal residence
 - Include rental to a single party of individuals

Requirements for all STRPs:

- Proof of insurance of not less than 1 million dollars per occurrence.
- Name, phone number, and email of person or business that will be the responsible party residing within a 25-mile radius.
- Proof of notification to owner of any property that shares a common wall or driveway with the proposed STRP.
- Signs, advertising, or any other display on the property indicating that the dwelling unit is being utilized, in whole or in part, as a STRP is prohibited.
- All STRP occupants shall abide by all applicable noise restrictions contained in the Metropolitan Code and all applicable waste management provisions of Chapter 10.20 of the Metropolitan Code.
- The STRP shall have smoke alarms in all locations required by the Fire Marshall.
- No recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use.
- No food shall be prepared for or served to the transient by the permit holder.
- The principal renter of a STRP unit shall be at least twenty-one (21) years of age.
- The maximum number of occupants permitted on a STRP property at any one time shall not exceed more than twice the number of sleeping rooms plus four.
- Simultaneous rental to more than one party under separate contracts shall not be allowed.
- The STRP owner shall not receive any compensation or remuneration to permit occupancy of a STRP for a period of less than twenty-four (24) hours.

ATTACHMENT 4

- The permit holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.
- A STRP permit shall not be transferred or assigned to another individual, person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to operate a STRP on the property.
- Upon the filing of three or more complaints within a calendar year regarding a STRP permit, the department of codes administration shall notify the permit holder in writing of such complaints. If the department of codes administration determines that violations of this section or any other ordinance or law relating to STRPs have occurred, the permit to operate a STRP may be revoked. Once a STRP permit has been revoked, no new permit shall be issued to the applicant for the same property for a period of one year.

<http://www.nashville.gov/Codes-Administration/Construction-and-Permits/Short-Term-Rentals.aspx>

DC

The law in DC is not very clear, but I found the chart below (supplied by a DC Department of Consumer and Regulatory Affairs representative) in an article about the subject.

Do you live in the place you're renting on Airbnb?	How many people stay at a time?	How long are you renting your place for?	Here's what you need to be legal
Yes	1-2	29 days or fewer	A Home Occupation Permit [HOP] for a Bed and Breakfast, and a B&B business license
Yes	3 or more	29 days or fewer	Approval from the Board of Zoning Adjustment and a general business license
No	1 or more	29 days or fewer	Not allowed under zoning without a use variance; property owner would need to get general business license

Chart is not comprehensive.

http://dc.urbanturf.com/articles/blog/the_growing_airbnb_economy_and_what_it_might_mean_for_dc/8069

New York City

New York State Multiple Dwelling Law prohibits un-hosted rentals of less than 30 days in any "Class A" building (a building occupied by 3 or more families living independently). The law does allow hosted

rentals (the owner must be present) for less than 30 days in “Class A” buildings provided that the guest has access to all parts of the apartment.

Short-term rentals in other buildings are typically prohibited unless the building’s certificate of occupancy expressly authorizes that short-term rentals are allowed

<http://www.nolo.com/legal-encyclopedia/overview-airbnb-law-new-york-city.html>

Philadelphia

Philadelphia allows a use called *Limited Lodging*. A fact sheet defines it as “the short term rental of your home, or a room within your home. These short term rentals may not exceed 30 consecutive days for any visitor. Your home or a room can be rented for up to 180 days throughout a calendar year, but you will need to meet certain requirements and limitations to utilize your home for Limited Lodging.”

Rentals of 90 days or less do not require a permit. The use is subject to the following:

1. Smoke alarms shall be installed throughout the home in the following locations:
 - a. In each bedroom.
 - b. In the hall area in the immediate vicinity of the bedrooms.
 - c. On each floor of the home, including basements.
2. Carbon monoxide alarms shall be installed in the home in the following manner:
 - a. Carbon monoxide alarms shall be installed within 15’ of the entrance to every bedroom or within 15’
of a bed in sleeping areas where there is no enclosed bedroom.
 - b. Alarms shall be centrally located on a wall or the ceiling, but not directly in front of a door to a
bathroom or within 5’ of a cooking appliance.
 - c. If the alarm is a combination smoke and carbon monoxide alarm, it shall be located in
accordance
with the installation requirements for smoke alarms.
3. Signs for lodging are prohibited on your home.
4. The home may not be occupied by more than three (3) persons (including the owner and renters) who are unrelated by blood, marriage, adoption, or foster-child status, or are not Life Partners.

ATTACHMENT 4

5. Short term rentals may not result in physical changes to your home so that it no longer looks like a home, such as constructing a separate building entrance for the sole use of the renters.

The following information must be supplied to the renters:

1. Renters are allowed to have guests only between the hours of 8:00am and 12:00am.
2. Renters shall be notified of the trash and recycle collection days for your home and any applicable rules and regulations pertaining to leaving or storing trash on the exterior of your home. Proper containers shall be provided for the renters.
3. Renters shall be notified that excessive noise is prohibited and such violators shall be subject to fines and penalties.
4. The owner or their designee shall provide contact information to the renters in case of complaints regarding the condition, operation, or conduct of the occupants of the home. The contact person must have the responsibility to take action to resolve such complaints.

<http://www.phila.gov/li/PDF/Limited%20Lodging%20Information%20Flyer.pdf>