

MEMORANDUM

April 16, 2024

TO: Parks, Housing, & Planning (PHP) Committee

FROM: Naeem M. Mia, Legislative Analyst

SUBJECT: **FY25 Recommended Operating Budget – Department of Housing and Community Affairs (DHCA) – General Fund and Grant Fund**

PURPOSE: Vote on recommendations for the Council’s consideration

Expected Attendees:

- Scott Bruton, Director, DHCA
- Somer Cross, Chief of Housing, DHCA
- Nathan Bovelleville, Chief of Community Development, DHCA
- Pofen Salem, Chief of Finance and Administration, DHCA
- Anita Aryeetey, Senior Fiscal and Policy Analyst, Office of Management and Budget (OMB)

Council President’s FY25 Budget Guidance:

As outlined in Council President’s budget guidance memorandum, all *tax-supported* additions or enhancements to the budget over the FY24 Approved level must be placed on the New/Enhanced Programs list *except* compensation adjustments in County Government (which are being considered separately) and changes to internal service funds (such as motor pool), which will be looked at across all budgets as a single item.

The Executive's budget also includes \$16,168 for a 3% inflationary adjustment for non-profit contracts. Since this adjustment applies to multiple departments and NDAs, it will be reviewed as a stand-alone item during full Council budget worksessions in May.

Summary of Report:

This staff report contains the following sections:

- I. Fiscal Expenditure Summary for All Funds (General, HIF, & Grant)
- II. Summary of Council Staff Recommendations for DHCA General Fund and Grant Fund

- III. FY25 Organizational Restructuring and Program Enhancements
- IV. Additional Information on Position Enhancements
- V. FY25 Fee Increases and Revenue Impacts on General Fund
- VI. FY25 Impact of County Mandates (Bill 15-23 and Bill 22-23)
- VII. FY25 Operating Budget Equity Tool (OBET) Rating and Justification

I. Fiscal Expenditure Summary for All Funds (General, HIF, & Grant)

All Funds	FY24 Approved	FY25 Recommended	FY24 APP vs. FY25 REC
General Fund - Total	\$10,625,718 69.25 FTEs	\$14,094,919 90.45 FTEs	\$3,469,201 32.6%
Personnel Costs	\$8,794,312	\$11,805,796	\$3,011,484 +34.2 %
Operating Costs	\$1,831,406	\$2,289,123	\$457,717 +25.0%
Housing Initiative Fund - Total	\$57,287,692 22.15 FTEs	\$56,196,099 23.15 FTEs	(\$1,091,593) -1.9% %
Personnel Costs	\$3,081,939	\$3,377,336	\$295,397 +13.8%
Operating Costs	\$54,205,753	\$52,818,763	(\$1,386,990) -2.6%
Grant Fund - Total	\$8,846,132 14.80 FTEs	\$8,863,009 13.40 FTEs	\$16,877 +0.2%
Personnel Costs	\$2,261,501	\$2,150,509	(\$110,992) -4.9%
Operating Costs	\$6,584,631	\$6,712,500	\$127,869 +1.9%
Total Expenditures (All Funds)	\$76,759,542	\$79,154,027	\$ 2,394,485 +3.4%

The total recommended *General Fund portion* of the FY25 Operating Budget for the Department of Housing and Community Affairs is \$14,094,919, an increase of \$3,469,201 or 53.2 percent from the FY24 Approved Budget of \$10,625,718. Personnel costs comprise 83.7 percent of the budget for 133 full-time positions (grant-funded positions are included in this headcount) and a total of 90.45 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating expenses account for the remaining 16.3 percent of the FY25 budget.

The total recommended *Grant Fund portion* of the FY25 Operating Budget for the Department of Housing and Community Affairs is \$8,863,009, an increase of \$16,877 or 0.2 percent from the FY24 Approved Budget of \$8,846,142. Personnel costs comprise 24.2 percent of the budget for 2 full-time positions and a total of 13.40 FTEs. Total FTEs may include seasonal or

temporary positions and may also reflect workforce charged to or from other departments or funds. Operating expenses account for the remaining 75.8 percent of the FY25 budget.

II. Summary of Council Staff Recommendations for DHCA General Fund and Grant Fund

1. **General Fund Items for New/Enhanced Programs List.** Council staff recommends the addition of all items on Table A below to the New/Enhanced Programs list – the total FY25 impact of these additions is \$924,018 and 7.0 FTEs.
2. **General Fund Items for Approval.** Council staff recommends approval of all items on Table B below – the total FY25 impact is an increase of \$2,719,514 and 14.20 FTEs. Staff notes that certain items, such as FY25 compensation costs, motor pool and print and mail charges, and inflationary adjustments will be determined separately through the budget development process.
3. **Grant Fund Items for Approval.** Council staff recommends approval of all items on Table C below – the total FY25 impact is an increase \$16,877 and a reduction of 1.40 FTEs.

Table A. Staff Recommendations for FY25 General Fund – Add to N/E Programs List.

#	Item	Description	Cost Change	FTE	Type	Ongoing
1	Enhance	One Housing Code Inspector III Position to Meet County Mandates for the Re-inspection Program	150,354	1.0	Enhancement	Ongoing
2	Add	One Manager II Position for Rent Stabilization Program for Overall Managerial Responsibilities for the New Rent Stabilization Unit	122,940	1.0	Enhancement	Ongoing
3	Add	One Manager III Position to Close Operational Gaps in the Licensing and Registration Unit and Increase Revenue Generation	113,633	1.0	Enhancement	Ongoing
4	Enhance	One Investigator III Position to Comply with County Mandates and Meet Increased Service Demand (for COC Program)	92,560	1.0	Enhancement	Ongoing
5	Enhance	One Program Manager I Position to Support Increased Service Demand in the Office of Landlord-Tenant Mediation	92,073	1.0	Enhancement	Ongoing
6	Enhance	One Program Manager I Position to Provide Support for Increased Demand in the Moderately Priced Dwelling Units (MPDU program)	92,073	1.0	Enhancement	Ongoing

7	Enhance	One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection	86,053	1.0	Enhancement	Ongoing
	Total:		924,018	7.00		

Table B. Staff Recommendations for FY25 General Fund – Approve.

#	Item	Description	Cost Change	FTE	Type	Ongoing
1	Add	Eight Positions and Associated Operating Expenses to Fully Implement the Rent Stabilization Program (Bill 15-23)	1,008,534	8.0	Bill 15-23	Ongoing
2	Shift	Manager II Transferred from the Office of Human Resources to Support Strategic Initiatives and New Programming	229,205	1.0	Mid-Year	Ongoing
3	Add	Two Housing Code Inspectors and Associated Operating Expenses for Implementation of the Short-Term Residential Rental Program (Bill 22-23)	365,109	2.0	Bill 22-23	Ongoing
4	Add	Two Information Technology Positions for the Implementation of Bill 15-23 - Rent Stabilization and Bill 22-23 - Short-Term Residential Rental Programs	287,442	2.0	Bill 15-23/22-23	Ongoing
5	Add	Two Program Specialists for the Implementation of the Short-Term Residential Rental Program (Bill 22-23)	232,428	2.0	Bill 22-23	Ongoing
6	Enhance	On-going Information Technology Operating Expense for Software Licenses and Maintenance Needs for the Short-Term Residential Rental Portal	95,172	-	Enhancement	Ongoing
7	Enhance	On-going Information Technology Expense to Maintain and Monitor the Case Management System and Rental Portal	81,957	-	Enhancement	Ongoing
8	Enhance	Enforcement of the Single-Family Survey and Licensing Registration	79,160	-	Enhancement	Ongoing
9	Eliminate	One Vacant Lapsed Position to Better Align the Division Personnel Complement	-	-0.3	-	Ongoing
10	Increase Cost	FY25 Compensation Adjustment	445,143	-	-	Ongoing
11	Increase Cost	Annualization of FY24 Compensation Increases	369,631	-	-	Ongoing
12	Increase Cost	Annualization of FY24 Lapsed Positions	211,950	-	-	Ongoing
13	Increase Cost	Three Percent Inflationary Adjustment to Non-Profit Service Provider Contracts	16,168	-	Enhancement	Ongoing

14	Increase Cost	Printing and Mail	2,603	-	-	Ongoing
15	Decrease Cost	Miscellaneous Operating Expenses [Housing Development]	(1,000)	-	-	Ongoing
16	Decrease Cost	Miscellaneous Operating Expenses [Multi-Family Housing Programs]	(1,000)	-	-	Ongoing
17	Decrease Cost	Miscellaneous Operating Expenses [Neighborhood Revitalization]	(1,500)	-	-	Ongoing
18	Decrease Cost	Miscellaneous Operating Expenses [Common Ownership Community Program]	(4,000)	-	-	
19	Decrease Cost	Miscellaneous Operating Expenses [Administration]	(15,682)	-	-	Ongoing
20	Decrease Cost	Miscellaneous Operating Expenses [Housing Code Enforcement]	(16,180)	-	-	Ongoing
21	Decrease Cost	Retirement Adjustment	(8,178)	-	-	Ongoing
22	Decrease Cost	Motor Pool Adjustment	(36,394)	-	-	Ongoing
23	Decrease Cost	Elimination of One-Time Items Approved in FY24	(42,590)	-	-	Ongoing
24	Shift	Tax-Supported Charge Backs to the Office of County Attorney	(114,439)	-0.5	-	Ongoing
25	Decrease Cost	Annualization of FY24 Personnel Costs	(464,025)	-	-	Ongoing
-	Total:	-	2,719,514	14.20	-	-

Table C. Staff Recommendations for FY25 Grant Fund – Approve.

#	Item	Description	Cost Change	FTE	Type	Ongoing
1	Add	Grant Funding for Non-Profit Providers	660,000	-	-	Ongoing
2	Tech. Adj.	Realign Budget Allocation Between PC and OE to Meet the Estimated Grant Amount	113,914	-	-	Ongoing
3	Increase Cost	Takoma Park Code Enforcement Contract	16,877	-	-	Ongoing
4	Decrease Cost	Abolish Two Vacant Lapsed Positions to Better Realign Personnel Complement	-	-1.40	-	Ongoing
5	Decrease Cost	Annualization of FY24 Personnel Costs	(113,914)	-	-	Ongoing
6	Decrease Cost	Community Development Block Grant (CDBG) Adjustments	(660,000)	-	-	Ongoing
	Total:	-	16,877	(1.40)	-	-

III. FY25 Organizational Restructuring and Program Enhancements

For FY25, the department is planning a reorganization of its current structure to improve operational efficiencies (particularly involving IT systems) and process workflows in light of the addition of new programs (Rent Stabilization and Short-Term Rental Inspections). The current and planned organization charts are found on circles 78 and 79, respectively.

The reorganization involves the creation of a new Rental Housing Division to include both the Rent Stabilization program created under Bill 15-23 and the shift of the Office of Landlord-Tenant Affairs (OLTA) from the Division of Community Development. To support this new division, the Executive is recommending the addition of a new MII Rental Housing Division Chief to oversee both programs at an FY25 cost of \$122,940 (see line #2, Table A).

As justification, the department states: “The MII position recommendation is part of DHCA’s proposed reorganization. Due to taking on responsibility for rent stabilization and short-term rentals, DHCD will have [a total of] 14 new staff members. These new staff and programs and other staffing changes necessitate a reorganization of DHCA’s organizational structure. DHCA plans to create a fourth Division, Rental Housing, which will include the OLTA and Rent Stabilization units. To ensure this new division has adequate supervisory support for managerial responsibilities and functions, DHCA requested, and the CE approved the recommendation of one M2 position.”

In addition, the Executive is recommending additional enhancing existing programs and divisions with new positions and operating expenses to support the department’s operations, including enhanced revenue generation and services (these new positions are fully offset by fee increases further discussed in this packet).

The department has already begun implementing improvements; in FY24, a MII position was shifted from the Office of Human Resources (OHR) to DHCA (see line #2, Table B). The position formerly served as OHR’s Division Chief of HR Business Operations, Strategy, and Performance Analytics and became DHCA’s Division Chief for Process Management and Analytics in October 2023.

Furthermore, operating expenses of \$256,289 (partly offset by reductions of \$39,362) are requested to improve existing IT systems and provide postage expenses for survey/data collection by the department (see lines #6-8 Table B; reductions are on lines #15-20, Table B). For FY25, two IT initiatives are planned as follows:

1. Rental Housing Portal and Database Integration - DHCA is collaborating with TEBS to develop a unified Rental Housing Portal to assist in administrating the new rent stabilization law and improve the gathering of rental housing data. The portal will improve DHCA’s data management and analysis by providing a platform for integrating DHCA’s existing housing databases. DHCA will iteratively integrate the Rental Housing Portal, the Case Management System, and the L&R and Code Enforcement databases to improve administration, compliance, and data management.

The data integration efforts will allow DHCA to monitor our performance better, improve data quality, and ensure operational efficiency. Furthermore, DHCA is committed to improving the landlords' and tenants' online interactions with the department. The DHCA rental housing portal will allow stakeholders to access the various housing program areas while creating internal operational efficiency and ensuring data integrity across databases. The new portal and the integration of DHCA's databases will require constant in-house maintenance, troubleshooting, and iterative development to regularly implement improved staff and end-user functionality.

2. Short-Term Residential Portal - DHHS currently uses a propriety software subscription service to discover and track short-term rental housing in the County across all the online platforms used for marketing such units. For DHCA to effectively administer the Short-Term Rental law and regulations, we must continue the software subscription service DHHS uses to locate and monitor these properties, as well as to modify our existing databases to support new functionality for DHCA enforcement, complaints, and licensing of these properties.

In addition, DHCA must license and ensure program compliance for these elusive properties, which impact three of our major DHCA databases: Code Enforcement, the OLTA (Office of Landlord-Tenant Affairs), and Licensing and Registration. The software product also allows the County to review and collect tax payments on Short-Term Rentals.

Council staff recommendation: Add all items (new positions) on Table A to the New/Enhanced Programs list; this amount totals \$924,718 and 7.0 FTEs. While the proposed fees increase would fully offset the FY25 cost of these new positions and the enhancements would support the department's planned reorganization, *overall FY25 expenditures exceed revenues from fees by \$963,544 (see Table D below) due to compensation adjustments and other cost increases.*

Council staff requested that the department provides its top priorities for the new positions; the department identified all new positions as top priorities for FY25 with the exception of the Program Manager I position to support the MPDU program (line #7, Table A). Council staff notes that the Program Specialist II position (line #7, Table A) was previously requested for the L&R program but not approved in the FY24 budget process. Since FY20, positions have been added to OLTA, MPDU program, and Code Enforcement but not for L&R.

At reconciliation, the Council may wish to prioritize enhancements that would support increased fee collection in the L&R program; these enhancements include:

- One Manager III Position to Close Operational Gaps in the Licensing and Registration Program and Increase Revenue Generation (\$113,633, 1.0 FTE) (line #3, Table A); and
- One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection (\$86,053, 1.0 FTE) (line #7, Table A).

IV. Additional Information on Position Enhancements

Q1. One Housing Code Inspector III Position to Meet County Mandates for the Re-inspection Program [Housing Code Enforcement] (line #1, Table A).

Response: This position is needed to expand DHCA’s capacity in the multifamily housing rental team under the Code Enforcement Program to perform mandated inspections for properties designated as Troubled, At-risk, and Compliant per Executive Regulation 5-17, as the result of the new restrictions on properties with Troubled and At-Risk properties under Section 29-58(b) of the new rent stabilization law.

DHCA is adding one housing code enforcement inspector to handle the increased workload and will reevaluate whether additional inspectors are needed to ensure re-inspections are conducted in a timely manner in its FY26 budget recommendations.

Q2. Enhance One Investigator III Position to Comply with County Mandates and Meet Increased Service Demand [Common Ownership Community Program] (line #4, Table A).

Response: This position is an Operating Budget Impact resulting from the recommended new CIP for “Revitalization for Troubled and Distressed COCs.” If the Council approves the new CIP, the COC will need a new member of staff to administer and manage this new loan program.

The position should be a Program Manager II, G25, not an Investigator. A mistake was made in the CE recommended budget.

Q3. Enhance: One Program Manager I Position to Support Increased Service Demand in the Office of Landlord Tenant Affairs (Landlord-Tenant Mediation) (line #5, Table A).

Response: OLTA currently lacks administrative support to coordinate significant service requests and reduce the backlog as required by County codes. This position can ensure that cases are assigned to investigators in a timely manner, provide oversight for tenant services contracts managed by OLTA, conduct and coordinate outreach activities to proactively engage with landlords/owners and tenants, and assist with monitoring the management of cases by Investigators.

This position is critical to OLTA’s proper functioning; it will allow DHCA to support proper landlord/tenant relations in Montgomery County and to identify and respond appropriately to any violations. Indirectly, this position will work with the Rent Stabilization staff to provide additional administrative support and coordination for that new program.

Q4. Enhance: One Program Manager I Position to Provide Support for Increased Demand in the Moderately Priced Dwelling Units (MPDUs) Program [Affordable Housing Programs] (see line #6, Table A).

Response: This position would close the existing capacity gap among DHCA staff for the timely review of MPDU purchaser applications and provide assistance with purchaser training and oversight after purchase. Additionally, this position can assist with the Countywide senior affordable housing program that DHCA is developing in collaboration with multiple departments and Council staff.

Q5. Add: One Manager III Position to Close Operational Gaps in the Licensing and Registration Unit and Increase Revenue Generation and Enhance: One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection (see line #3 and 7, Table A).

Response: DHCA's Licensing & Registration (L&R) Program has encountered a chronic staffing deficit for nearly a decade, during which it has relied on several contractors to collect licensing revenue and respond to various service requests related to rental housing licensing and compliance. With the additional responsibilities placed on L&R due to the passing of Bill 22-23 (Short-term Residential Rental), this program must have an MIII position that can manage and supervise the implementation of short-term rental licensing and compliance and address a long-term capacity deficit in L&R, so it has comparable staffing equity with other DHCA programs.

The workload and job responsibilities currently performed by a PMII staff are beyond its job class. L&R needs an adequate managerial structure to administer and oversee the licensing process and the annual Single-family and Multi-family rental surveys under required County codes.

L&R collects all licensing fees and rental housing data for DHCA and the County. The proposed increase in licensing fees will fully support the new positions and enhance L&R capacity to generate more revenue for DHCA to ensure rental housing properties follow the County Code and support the implementation of Bill 22-23 and County Code Chapter 29.

Currently, the L&R has one Program Manager II, two Program Specialists, one Office Service Coordinator, and three temp contractors. The new Program Specialist, if approved, would fill L&R's inadequate capacity to fulfill its statutory and regulatory responsibilities:

- Maintain compliance with registering approximately 1,200 common ownership communities.
- Produce complete and accurate data for approximately 690 multifamily rental properties and 29,400 single-family rental properties, comprising over 130,000 residential rental units.
- Track and maintain lead compliance data for over 10,000 properties built before 1978.
- Generate revenue through enforcement activity, which DHCA is not properly staffed to do. Currently, there are 5,200 unlicensed properties. With additional staffing capacity, DHCA could generate an additional \$500K or more in license fees and citation revenue collection.
- Generating more citations will create more court hearings, and staff will be required to attend court hearings.

V. FY25 Fee Increases and Revenue Impacts on General Fund

For FY25, the Executive is recommending increases in the annual Landlord-Tenant Registration Fee (“Rental Licensing Fee”) as well as a new short-term rental registration fee to support the implementation of Bill 22-23. Rental licensing fees are assessed annually on the County’s stock of rental housing units which is estimated at over 109,000 units in FY25. The short-term rental registration fee is also assessed annually. Both fees are the responsibility of the landlord.

The total estimated *new* revenues from these fee increases is \$4,559,320; total fee-sourced revenues in FY25 are projected to be \$13.1 million and is sufficient to cover 93.16% of the department’s FY25 general fund expenditures of \$14.1 million. Table D below contains a history of fees collected (budgeted and actuals) by DHCA since FY22.

Table D. Fees Collected by DHCA Since FY22.

	<u>FY22</u>		<u>FY23</u>		<u>FY24</u>	<u>FY24</u>	<u>FY25</u>	<u>FY24 App.</u>
	<u>Approved</u>	<u>FY22 Actual</u>	<u>Approved</u>	<u>FY23 Actual</u>	<u>Approved</u>	<u>Estimated</u>	<u>Recommended</u>	<u>Vs. FY25</u>
General Fund - Expenditures	8,879,029	9,361,509	9,504,566	9,380,647	10,625,718	11,047,182	14,094,919	3,469,201
General Fund - Revenues	8,463,100	8,088,646	9,065,850	7,377,866	8,572,055	8,572,055	13,131,375	4,559,320
LT Fees	7,119,750	7,328,326	7,592,500	6,586,131	7,487,350	7,487,350	11,263,722	3,776,372
COC Fees	722,500	717,625	792,500	753,447	1,024,705	1,024,705	998,378	(26,327)
Other Charges/Fees	74,350	(12,265)	74,350	(7,370)	41,500	41,500	76,155	34,655
Other Fines/Forfeitures	40,000	78,376	40,000	46,802	9,000	9,000	96,000	87,000
Misc. Revenues	6,500	(19,872)	6,500	(1,144)	6,500	6,500	4,000	(2,500)
BOA Fees	8,000	(3,544)	8,000	-	-	-	35,620	35,620
Other Licenses/Permits	492,000	-	552,000	-	3,000	3,000	657,500	654,500
% Self-Supported:	95.32%	86.40%	95.38%	78.65%	80.67%	77.59%	93.16%	
Remainder not Self-Supported:	415,929	1,272,863	438,716	2,002,781	2,053,663	2,475,127	963,544	

Looking closer at each fee on Table E below, the most recent change in the rental licensing fee took effect in FY24; the FY25 increase for multi-family rental properties is 92% higher than the FY24 rate. The revenue from multi-family rentals alone is expected to generate \$3.89 million in *total* revenues for FY25, or \$8.1 million in total.

Table E. FY25 vs. FY24 Rental License Fee.

Per-Unit Annual Fee	Multi-Family & ADU 1	Condo	Single-Family	ADU 3
<i>Previous – FY18</i>	\$44	\$59	\$101	\$101
<i>Previous – FY20</i>	\$47	\$64	\$114	\$111
<i>Current - FY24</i>	\$52	\$70	\$125	\$122
<i>Proposed - FY25</i>	\$100	\$73	\$130	\$125
\$ Change:	\$48	\$3	\$5	\$3
% Change:	92.31%	4.29%	4.00%	2.46%

DHCA staff examined the current fee structure in several jurisdictions in order to justify the increase; Table F contains the comparative analysis for most unit types:

Table F. Current Rental Licensing Fees in Local Jurisdictions

	Multi-Family	Single-Family	Condo	ADU
City of Takoma Park	\$128/yr	\$128/yr	\$128/yr	
City of Rockville	\$100/yr	\$200/bi-annual	\$200/bi-annual	
City of Gaithersburg	\$130/bi-annual	\$150/bi-annual	\$150/bi-annual	
Howard County	\$93.5/yr	\$93.5/yr	\$93.5/yr	
	\$82.5/bi-annual, \$100 surcharge after 2nd incomplete application review, \$500 surcharge for expired renewal	\$126.5/bi-annual, \$100 surcharge after 2nd incomplete application review, \$100 surcharge for re-inspection	\$126.5/bi-annual, \$100 surcharge after 2nd incomplete application review, \$100 surcharge for re-inspection	N/A
PG's County	Range from \$151/unit/yr (3-unit apts) to \$88/unit/yr (for 10-unit apts)	One family rental - \$198/yr; Two family rental - \$283.80/yr		
DC		\$283.80/yr	N/A	N/A
Montgomery County - Existing Fee	\$52/yr	\$125/yr	\$70/yr	\$122/yr
Montgomery County - Proposed Fee	\$100/yr	\$130/yr	\$73/yr	\$125/yr

The current FY24 rental licensing fees are *significantly* below surrounding jurisdictions, particularly for multi-family properties. With the proposed fee increase, the County will remain below all three local municipalities in the County, as well as competitive with Howard, Prince George, and the District for most unit types. Given that the estimated FY24 fee revenue is expected to cover only 77.6% of estimated expenditures, Council staff supports the fee increase.

The short-term rental registration fee is proposed to increase from \$150 per unit to \$500 per unit (an increase of \$350 or 233%). The fee is increased to self-support all five (5) new positions and associated operating expenses in the FY25 budget (no positions or operations expenses are proposed to shift from HHS). This fee is expected to generate a total of \$654,000 in FY25 (or an additional \$455,000 vs. FY24) which is sufficient to cover the ongoing annual personnel cost of \$597,000 of the new positions.

Council staff recommendation: Approve.

VI. FY25 Impact of County Mandates (Bill 15-23 and Bill 22-23)

1. Bill 15-23 – Rent Stabilization Program (\$1,152,255, 9.0 FTEs)

On July 18, 2023, the Council approved Bill 15-23 to implement a rent stabilization regime within the County and create a new program within DHCA to administer the function. The Fiscal Impact Statement for Bill 15-23 initially estimated eight (8) new positions to create a new rent stabilization office. Subsequent to various amendments and modifications to the original bill, DHCA re-estimated the fiscal impact to require a total of nine (9) new positions. The positions will include the following duties:

- manage the annual rent increase reporting requirements;
- enforce compliance with the rent stabilization law and regulations;

- manage tenant complaints; the application and appeals processes for the fair return, capital improvement, and substantial rehabilitation petitions;
- conduct community outreach;
- respond to service inquiries and troubleshoot service problems; and
- investigate and enforce remedies for noncompliance.

On December 12, 2023, the Council approved Special Appropriation #24-14 providing FY24 funding of \$910,304, including \$349,764 for nine (9.0) full-time equivalent positions and \$560,540 for operating expenses. The Council staff report and FIS for the original Bill is found on circles 21-30 and 31-32, respectively.

The special appropriation assumed a hiring start date of March 2024. All nine positions have been filled as of April 8, 2024. The Executive is now requesting the annualized costs of these nine positions in his FY25 recommended operating budget. The total FY25 impact is estimated at \$1,152,255 (see lines #1 and 4 of Table B above).

Council staff recommendation: Approve.

2. *Bill 22-23 – Short-Term Residential Rental Inspections (\$741,258, 5.0 FTEs)*

On November 7, 2023, the Council approved Bill 22-23 to amend the provisions for Short-Term Residential Rentals. Specifically, Bill 22-23 will reassign enforcement responsibility to DHCA; increase the maximum penalty; amending the application process; and clarify the processes for challenges, suspensions, revocations, and appeals.

The FIS for Bill 22-23 estimated a total of five (5) positions within DHCA to implement the shift of this function from the Department of Health and Human Services (HHS); the bill requires enforcement to begin on July 1, 2024. At the time, it was expected that DHCA would seek a supplemental appropriation in FY24 to fund the new positions. The Council staff report is found on circles 36-107; the FIS is found on circles 75-77.

The Executive is requesting a total of \$741,258 to create the five (5) new positions for FY25 ((see lines #3-5 of Table B above), including personnel costs of \$597,000 and operating expenses of \$144,258. Ongoing costs total DHCA and OMB staff are coordinating to determine whether the positions can be created prior to the end of FY24 to begin the recruitment process *without* the need for an FY24 supplemental appropriation.

Council staff recommendation: Approve.

VII. FY25 Operating Budget Equity Tool (OBET) Rating and Justification

The department scored 10 out of 11 in its FY25 OBET rating, demonstrating a “strong commitment” to racial equity and social justice. The initial resubmission scored 8 out of 11.

According to the Office of Racial Equity and Social Justice (ORESJ), “the department’s resubmission does not change its overall categorization as “demonstrating a strong commitment” to advancing racial equity and social justice. The department’s resubmission further demonstrates its commitments in the areas of “normalizing” and “organizing” by specifying activities its CORE team plans to lead and identifying partners with whom to collaborate on outreach events and determining fiscal and racial equity and social justice impacts. Within its original submission, the department provided a substantiated response in the area of “operationalizing” (therefore an additional point was not awarded).”

The Committee may wish to request the department provide examples of its RESJ-related activities in FY24 as well as upcoming plans and initiatives for FY25.

<u>This packet contains:</u>	<u>Circle Page #</u>
1. Page from FY25 Recommended Operating Budget Book – DHCA	1-20
2. Staff Report dated December 12, 2023 for Special Appropriation #14-24	21- 30
3. FIS for Bill 15-23	31-32
4. Staff Report dated November 7, 2023 for Bill 22-23	33-104
5. FIS for Bill 22-23	75-77
6. FY24 Organization Chart – Current	105
7. FY25 Organization Chart – Planned	106



Housing and Community Affairs

RECOMMENDED FY25 BUDGET

\$79,154,027

FULL TIME EQUIVALENTS

127.00

SCOTT BRUTON, DIRECTOR

MISSION STATEMENT

The Department of Housing and Community Affairs (DHCA) works to preserve and increase the supply of affordable housing; maintain existing housing in a safe and sanitary condition; preserve the safety and quality of residential and commercial areas; ensure fair and equitable relations between landlords and tenants; and support the success of common ownership communities - all with a focus on reducing racial inequities and climate change impacts.

BUDGET OVERVIEW

The total recommended FY25 Operating Budget for the Department of Housing and Community Affairs is \$79,154,027, an increase of \$2,394,485 or 3.12 percent from the FY24 Approved Budget of \$76,759,542. Personnel Costs comprise 21.90 percent of the budget for 133 full-time position(s) and no part-time position(s), and a total of 127.00 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses and Debt Service account for the remaining 78.10 percent of the FY25 budget.

DHCA expects the total signed agreements for affordable housing projects through the Payment in Lieu of Taxes (PILOT) program to abate \$24 million in taxes in FY25.

In addition, this department's Capital Improvements Program (CIP) requires Current Revenue funding.

COUNTY PRIORITY OUTCOMES

While this program area supports all seven of the County Executive's Priority Outcomes, the following are emphasized:

- A Greener County**
- An Affordable, Welcoming County for a Lifetime**
- Effective, Sustainable Government**

INITIATIVES

-
- ★ Provide \$160.5 million in funding to produce and preserve affordable housing units in Montgomery County. This funding commitment includes the allocation of \$13.5 million in the Montgomery Housing Initiative (MHI) Fund, \$97 million in the Affordable Housing Acquisition and Preservation CIP project, and a total of \$50 million in FY24 and FY25 in the Nonprofit Preservation Fund CIP.
 - ★ Provide \$56 million in new resources for the Montgomery Housing Initiative Fund to continue various programs and projects dedicated to creating and preserving affordable housing, and related services. The funding will provide for the renovation of distressed housing, creation of housing units for special needs residents, rental assistance and rapid rehousing, homeless prevention and relocation assistance, homeowner downpayment assistance, home accessibility rehabilitation, services to the "Building Neighborhoods to Call Home", "Housing First" programs, and the creation of mixed-income housing.
 - ★ Provide funds for the new Rent Stabilization Program to be fully operational in FY25. This program establishes maximum allowable rent increases to stabilize rents in the County while ensures landlords can earn a fair return on their investment.
 - ★ Provide annualized funding to support the implementation and enforcement of Bill 22-23 Short-term Residential Rental reassigned from the Department of Health and Human Services to the Department of Housing and Community Affairs (DHCA). The funding allows for improvement of the licensing application processes and enhancement of required housing inspections. The funding sources come from the adjusted licensing fees that allow the program to be self-supporting.
 - ★ Restructure DHCA's organizational functions by creating a new "Rental Housing" Division to support more synergy and collaboration between the Office of Landlord and Tenant Affairs (OLTA) and the Rent Stabilization Program, realigning some programs among different divisions for more effective operations, and adding needed staffing to close operational gaps and enhance service delivery.
 - ★ Create a Manager II position to manage the new Rental Housing Division to ensure rent stabilization mandates are fully implemented and integrated with other relevant services and functions across the department.
 - ★ Increase licensing fees on multifamily rental units and other housing types to align with the fees charged by surrounding jurisdictions and offset staffing needs. The revenue generated from the licensing fees will be utilized to directly support programmatic operations and improve service delivery in Licensing and Registration, Code Enforcement, Landlord-Tenant Mediation, Rent Stabilization, and the Short-term Residential Rental programs.
 - ★ Add one Program Manager II position in the Common Ownership Communities (COC) Program to manage and administer the Revitalization for Troubled and Distressed Common Ownership Communities CIP. This new loan program will help COC communities to address needed capital improvements and avoid loss or displacement of housing units, particularly for low-income homeowners.
 - ★ Add one Program Manager II position in the Asset Management unit to provide loan servicing and monitoring for the new COC loan program, as well as multifamily housing loan projects funded with additional resources in the Montgomery Housing Initiative Fund and the new Nonprofit Preservation Fund.
 - ★ Add one Manager III and a Program Specialist position in the Licensing and Regulation Program to resolve chronic service gaps, increase revenue collection, and enhance the department's capacity to ensure that all rental housing and common ownership communities comply with the County's licensing requirements.
 - ★ Add one Housing Code Inspector in the Code Enforcement unit to implement re-inspections for those troubled and at-risk properties as required in Executive Regulation 2-17.
 - ★ Add one Program Manager I position in the Office of Landlord-Tenant Affairs (OLTA) to administer and coordinate all service requests, reduce the backlog as required by County codes, and provide additional support and coordination for the new Rent Stabilization Program.
 - ★ Add one Program Manager I position in the Affordable Housing Program to review purchase applications for Moderately Priced Dwelling Units (MPDU), provide training and oversight to developers after the MPDU purchase, and collaborate with

other agencies to support development of senior housing in the County.

- ★ Continue to actively underwrite affordable housing loans to preserve and produce affordable housing. Three developments for multi-family projects have already been identified for potential funding in FY25. These developments would preserve or produce a total of 655 units, including 357 affordable units.

INNOVATIONS AND PRODUCTIVITY IMPROVEMENTS

- ★ DHCA's Moderately Priced Dwelling Unit (MPDU) program continues to generate new affordable units throughout the County. During FY23, the MPDU program generated 378 new MPDUs offered either for sale (43 units) or for rent (335 units).
- ★ DHCA's Multifamily Housing Development team successfully closed thirteen residential real estate loan transactions in FY23. Montgomery County provided more than \$96 million towards these developments. These transactions preserved, rehabilitated, or produced 975 units of affordable housing at an average cost of \$98,847 per unit throughout the County.
- ★ The Focused Neighborhood Assistance (FNA) program provides financial and technical assistance to improve the quality of life, safety, and welfare of their residents. Construction was substantially completed in FY23 for the Grover's Forge, Center Stage, Walker's Choice, and The Hamptons neighborhoods of Montgomery Village. All these communities will benefit from new LED lighting and site improvements. Additionally, the FNA program advanced a drainage and landscaping improvement project in the Wedgewood neighborhood and a lighting and common area improvement plan for the Montclair neighborhood.
- ★ Historically, the Code Enforcement team completes an average of 28,000 site visits and responds to 10,000 service requests annually. In FY23, the team completed 40,970 site visits and responded to more than 9,600 service requests.
- ★ DHCA's Code Enforcement unit continues to implement a contract established in 2003 with the City of Takoma Park to inspect the City's residential rental facilities. This agreement was established to ensure the protection of the health, safety and welfare of persons residing in over 500 residential rental facilities and 3,200 rental units within the City of Takoma Park.

PROGRAM CONTACTS

Contact Pofen Salem of the Department of Housing and Community Affairs at 240.777.3728 or Anita Aryeetey of the Office of Management and Budget at 240.777.2784 for more information regarding this department's operating budget.

PROGRAM PERFORMANCE MEASURES

Performance measures for this department are included below (where applicable), with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY24 estimates reflect funding based on the FY24 Approved Budget. The FY25 and FY26 figures are performance targets based on the FY25 Recommended Budget and funding for comparable service levels in FY26.

PROGRAM DESCRIPTIONS

★ Administration

This program provides overall direction, administration, and managerial support to the Department. Activities include budgeting, financial management, asset management, personnel management and administration, program oversight, training, automated systems management, and policy/program development and implementation.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Asset Management - Loan repayments billed / received	\$47,141,999	\$36,076,199	\$76,852,485	\$6,234,060	\$6,421,081
Number of affordable housing units managed under DHCA Rental Agreements	961	1,269	1,800	1,800	1,800
Department MC311 Service Requests (SR)	22,909	23,681	24,391	23,660	22,950
Department MC311 Service Request success rate	89.8%	83.8%	86.3%	88.9%	91.6%
NACo Awards earned	1	0	1	1	1

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	2,535,552	13.70
Increase Cost: Operating Expenses to Reflect the Debt Service Transfer for the Housing Capital Improvements Program and the Housing Opportunities Commission Production Fund	861,080	0.00
Increase Cost: Adjust Operating Expenses to Reflect Delta Between the FY24 and FY25 General Fund Transfer	417,029	0.00
Add: Two Information Technology Positions for the Implementation of Bill 15-23 - Rent Stabilization and Bill 22-23 - Short-Term Residential Rental Programs	287,442	2.00
Shift: Manager II Transferred from the Office of Human Resources to Support Strategic Initiatives and New Programming	229,205	1.00
Add: One Program Manager II Position to Support Operational and Increased Loan Servicing Needs	98,693	1.00
Enhance: On-going Information Technology Operating Expense for Software Licenses and Maintenance Needs for the Short-Term Residential Rental Portal.	95,172	0.00
Enhance: On-going Information Technology Expense to Maintain and Monitor the Case Management System and Rental Portal	81,957	0.00
Increase Cost: Three Percent Inflationary Adjustment to Non-Profit Service Provider Contracts	65,931	0.00
Increase Cost: Three Percent Inflationary Adjustment to Non-Profit Service Provider Contracts	16,168	0.00
Decrease Cost: Miscellaneous Operating Expenses	(15,682)	0.00
Shift: Tax-Supported Charge Backs to the Office of County Attorney	(114,438)	(0.50)
Decrease Cost: Adjust Other Revenue Sources in the Housing Initiative Fund	(515,649)	0.00
Decrease Cost: Rental Assistance Program Due to Decreased Recordation Tax Premium Estimates	(992,764)	0.00
Decrease Cost: Housing Opportunities Commission (HOC) Production Fund Contributions to the Housing Initiative Fund	(1,228,750)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	1,804,741	3.40
FY25 Recommended	3,625,687	20.60

Affordable Housing Programs

This program oversees the creation, selection, and oversight of inclusionary affordable housing units. It primarily enforces Chapter 25A of the County Code to ensure that both rental and sale Moderately Priced Dwelling Units (MPDUs) are provided. The housing units produced are marketed at controlled prices, which makes them affordable to moderate-income households.

Additional single-family housing programs are also overseen by this program to provide energy efficiency solutions and savings, and home accessibility rehabilitation.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of moderately priced dwelling units agreed upon to be constructed for future occupancy	288	783	300	300	300
Affordable Housing Program - Number of MC311 Service Requests	1,780	1,462	1,500	1,545	1,591
Affordable Housing Program - Percent of MC311 Service Requests meeting service length agreement	97.0%	96.0%	97.0%	99.9%	100.0%

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of moderately priced dwelling units produced and available for occupancy	249	327	300	309	318
Number of housing units improved/rehabilitated	24	25	50	52	53

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	1,138,019	6.50
Enhance: One Program Manager I Position to Provide Support for Increased Demand in the Moderately Priced Dwelling Units (MPDUs) Program	92,073	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	50,998	(0.50)
FY25 Recommended	1,281,090	7.00

Common Ownership Community Program

The Office of Common Ownership Communities (OCOC) is committed to providing owners, tenants, residents, boards of directors, and management companies of self-governing residential communities with information, assistance, and impartial dispute resolution programs that improve the quality of life in the community, strengthen the self-governing community structure, and enhance the value of residential property in community associations." The OCOC enforces Chapter 10B, Common Ownership Communities of the Montgomery County Code.

The OCOC program ensures fair and equitable relations between the governing bodies of homeowner associations, condominium associations, and cooperatives, and the individuals living within these common ownership communities, and encourages the maintenance and improvement of housing. Activities include mediating and arbitrating disputes; providing information and technical assistance to all parties; and taking legal action as necessary, including referring unresolved complaints to the Montgomery County Commission on Common Ownership Communities.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
COC Program Customer Service - Number of MC311 Service Requests	802	886	760	760	760
COC Program Customer Service - Percent of MC311 Service Requests meeting service length agreement	99.5%	93.5%	99.0%	99.0%	99.0%
Percent of Commission on Common Ownership Communities (CCOC) cases resolved prior to a hearing	58.0%	55.0%	46.0%	46.0%	46.0%

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	1,011,332	6.15
Enhance: One Investigator III Position to Comply with County Mandates and Meet Increased Service Demand	92,560	1.00
Decrease Cost: Miscellaneous Operating Expenses	(4,000)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	94,103	0.00
FY25 Recommended	1,193,995	7.15

Grants Administration - Federal Programs

Staff provides management and oversight to ensure compliance with all regulatory requirements for Federal funding awarded to Montgomery County by the U.S. Department of Housing and Urban Development (HUD) for the Community Development

Block Grant, the HOME Investment Partnership Grant, and the Emergency Solutions Grant programs. Funds from these programs support both operating activities and capital projects. Activities funded may include property acquisition, new construction, housing rehabilitation, commercial area revitalization, and handicapped accessibility improvements. Staff administers contracts with the cities of Rockville and Takoma Park, as well as nonprofit organizations awarded funding to provide a variety of public services involving assistance to persons with low incomes.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of contracts awarded and monitored	22	21	23	22	22
Funding awarded to CDBG public service contracts	\$630,000	\$625,000	\$630,000	\$660,000	\$660,000
CDBG public service contract compliance rate	100%	100%	100%	100%	100%
CDBG public service contract non-housing beneficiaries ¹	\$23,220	\$6,277	\$1,022	\$1,000	\$1,000

¹ DHCA partners with the Community Development Advisory Committee, which provides funding recommendations for public service contracts. The beneficiaries of these contracts fluctuate annually based on the type of services provided.

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	9,346,977	6.70
Technical Adj: Realign Budget Allocation Between PC and OE to Meet the Estimated Grant Amount	113,914	0.00
Add: Community Bridges, Inc. - Community Bridges Alumnae Program	45,000	0.00
Add: Community Reach of Montgomery County, Inc. - Mansfield Kaseman Health Clinic	45,000	0.00
Add: Homes Not Borders, Inc. - Home Set Ups and Moving Up Fund for Refugees and Migrants	40,000	0.00
Add: Collegiate Directions, Inc. - Career Mentoring Initiative	40,000	0.00
Add: Montgomery Housing Partnership, Inc. - MHP's Workforce Development Program	40,000	0.00
Add: United Way of the National Capital Area - Community Schools Model	40,000	0.00
Add: Mobile Medical Care, Inc. - Keeping Focused on Diabetic Eye Health	36,734	0.00
Add: Arts for the Aging, Inc. - Sustaining Health Equity Through the Participatory Arts	35,733	0.00
Add: Ayuda, Inc. - Domestic Violence & Family Law Survivors Program	35,000	0.00
Add: EveryMind, Inc. - Case Manager: Rep Payee and Friendly Visitor	35,000	0.00
Add: Latino Economic Development Corporation - LEDC Tenant Services and Eviction Prevention	34,920	0.00
Add: Horizons Greater Washington, Inc. - HGW School Year Saturday Academy - Montgomery County	34,108	0.00
Add: Community Reach of Montgomery County, Inc. - Rockville Emergency Assistance Program (REAP)	33,000	0.00
Add: Korean Community Service Center of Greater Washington, Inc. - Strengthening Asian Families through Empowerment and Service (SAFES)	32,533	0.00
Add: Food and Friends, Inc. - Improving the Lives and Health of the Most Vulnerable	32,115	0.00
Add: Community FarmShare LLC - Farm to Family Nutrition Access	29,965	0.00
Add: Germantown Cultural Arts Center, Inc. - Beyond BlackRock: Positive Youth Development Arts Outreach Programming	25,000	0.00
Add: Liberty's Promise, Inc. - Helping the Immigrant Youth of Montgomery County Succeed	25,000	0.00
Add: Bethesda African Cemetery Coalition, Inc. - The Bridge That Carried Us Over: Education for the 21st Century	20,892	0.00
Increase Cost: Takoma Park Code Enforcement Contract	16,877	0.00
Eliminate: One Vacant Lapsed Position to Better Align the Division Personnel Complement	0	(0.30)
Decrease Cost: Abolish Two Vacant Lapsed Positions to Better Realign Personnel Complement	0	(1.40)
Decrease Cost: Community Development Block Grant (CDBG) Adjustments	(660,000)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(1,358,029)	0.00
FY25 Recommended	8,119,739	5.00

☀ Housing Code Enforcement

This program enforces Chapter 26 of the County Code, *Housing Maintenance*, by inspecting rental condominiums, multi-family apartments, and single-family housing to ensure safe and sanitary conditions; Chapter 48, *Solid Wastes*; and Chapter 58, *Weeds*, the County's residential weeds and rubbish codes. Approximately 80 percent of the single-family inspections result from tenant and/or neighbor complaints; other inspections are the result of concentrated code enforcement efforts in specific areas. The multi-family inspections are based on a requirement for triennial inspections and in response to tenant and/or neighbor complaints. This program is supported by the collection of single-family and apartment/condominium licensing fees.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of Housing Code Enforcement inspections	28,185	41,142	42,376	43,648	44,957
Housing Code Enforcement Program Customer Service - Number of MC311 Service Requests	10,220	6,107	6,290	6,479	6,673
Housing Code Enforcement Program Customer Service - Percent of MC311 Service Requests meeting service length agreement	76.4%	76.3%	78.6%	80.9%	83.3%
Code Enforcement - Number of violations per unit	2.12	2.24	2.31	2.38	2.45
Code Enforcement - Average severity of violations per unit	2.6	2.1	2.2	2.2	2.3

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	5,454,198	39.50
Add: Two Housing Code Inspectors and Associated Operating Expenses for Implementation of the Short-Term Residential Rental Program (Bill 22-23)	365,109	2.00
Enhance: One Housing Code Inspector III Position to Meet County Mandates for the Re-inspection Program	150,354	1.00
Decrease Cost: Miscellaneous Operating Expenses	(16,180)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	371,596	0.00
FY25 Recommended	6,325,077	42.50

☀ Housing Development

This program provides management and oversight to support activities within the housing division including single- and multifamily housing programs. In addition to oversight of the affordable housing and multifamily housing programs, Housing Administration also oversees downpayment assistance programs, the creation of new affordable housing initiatives, and tax abatement PILOTs.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Affordable housing units produced in the production pipeline	961	406	718	740	762
Number of affordable housing units in the preservation pipeline	521	719	1,612	1,660	1,710
Cost per unit of affordable housing units preserved ¹	\$ 40,874	\$177,218	\$230,383	\$299,498	\$389,348
Cost per unit of affordable housing units produced ²	\$45,744	\$142,377	\$146,648	\$151,048	\$155,579
Percent of affordable units created or preserved serving households under 50% AMI ³	33.0%	30.0%	30.0%	30.9%	31.8%

¹ The significant cost increase per affordable unit being preserved in FY23 reflects the overall economic changes associated with inflationary adjustments, higher construction costs, and local tax policy changes.

² Average cost per unit fluctuates with the type of project financed. The significant cost increase per unit being produced for FY23 reflects the overall economic changes associated with inflationary adjustments, higher construction costs, and local tax policy changes.

³ DHCA's underwriting criteria was recently updated to reflect a goal of providing a certain attainable and consistent level of affordable housing for very low income households.

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	443,491	3.95
Decrease Cost: Miscellaneous Operating Expenses	(1,000)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(176,437)	(2.00)
FY25 Recommended	266,054	1.95

☀ Landlord-Tenant Mediation

The Office of Landlord-Tenant Affairs (OLTA) is charged with informing the public of the general rights and responsibilities of tenants and landlords and helping resolve disputes amicably, free of charge, without having to go through the District Court process. Landlord-Tenant enforces Chapter 29, Landlord-Tenant Relations of the Montgomery County Code, along with parts of Title 8, Landlord-Tenant of the Real Property Article, Annotated Code of Maryland, the State of Maryland Landlord-Tenant law.

This program ensures fair and equitable relations between landlords and tenants and encourages the maintenance and improvement of housing. Activities including mediating and arbitrating disputes; providing information and technical assistance to all parties; and taking legal action as necessary, including referring unresolved complaints to the Montgomery County Commission on Landlord-Tenant Affairs.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of Landlord Tenant mediations	845	937	1,014	1,044	1,076
Landlord Tenant Affairs Program - Number of MC311 Service Requests	7,783	12,938	12,958	12,978	12,998
Landlord Tenant Affairs Program - Percent of MC311 Service Requests meeting service length agreement	99.7%	99.3%	99.0%	99.0%	99.0%
Percent of landlord/tenant cases mediated successfully (not referred to the Commission)	97.0%	96.1%	95.0%	95.0%	95.0%
Number of evictions prevented due to Landlord & Tenant Affairs' intervention	153	287	315	315	315

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	2,010,286	10.00
Enhance: One Program Manager I Position to Support Increased Service Demand in the Office of Landlord-Tenant Mediation Division	92,073	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	499,004	0.00
FY25 Recommended	2,601,363	11.00

☀ Licensing and Registration

This program issues licenses to all rental housing (apartments, condominiums, and single-family) and registers all housing units within common ownership communities.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Licensing and Registration Program - Number of MC311 Service Requests	4,211	6,786	6,990	7,199	7,415
Licensing and Registration Program - Percent of MC311 Service Requests meeting service length agreement	99.9%	64.8%	80.0%	90.0%	100.0%
Number of rental licenses issued	110,421	109,266	112,544	115,920	119,398

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	486,925	3.20
Add: Two Program Specialists for the Implementation of the Short-Term Residential Rental Program (Bill 22-23)	232,428	2.00
Add: One Manager III Position to Close Operational Gaps in the Licensing and Registration Unit and Increase Revenue Generation	113,633	1.00
Enhance: One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection	86,053	1.00
Enhance: Enforcement of the Single-Family Survey and Licensing Registration	79,160	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	14,599	0.00
FY25 Recommended	1,012,798	7.20

Multi-Family Housing Programs

This program creates, preserves, and rehabilitates affordable multi-family housing units. This section provides funding to supplement rents through rental agreements, negotiates Payments In Lieu of Taxes (PILOTS), reviews and approves rental building sales through the Right of First Refusal (ROFR) program, and negotiates and completes loans to create or preserve affordable units. Loans are made to the Housing Opportunities Commission (HOC), nonprofit organizations, property owners, and for-profit developers.

Major funding for these projects is provided from the Montgomery Housing Initiative Fund and other County Funds, the Federal HOME Grant, the Federal Community Development Block Grant, and State grants. The program emphasizes the leveraging of County funds with other public and private funds in undertaking these activities.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Number of affordable housing units produced	250	406	418	431	444
Number of affordable housing units preserved	700	604	620	641	660
Ratio of non-County dollars leveraged to County dollars in affordable housing projects	7.05	4.40	5.00	5.15	5.30

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	52,933,836	8.90
Decrease Cost: Miscellaneous Operating Expenses	(1,000)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(1,028,251)	0.00
FY25 Recommended	51,904,585	8.90

Neighborhood Revitalization

This program provides planning and implementation for neighborhood revitalization in targeted areas. Activities include commercial revitalization (physical and economic) in both local retail centers and central business districts as well as assistance to address other community concerns, including issues related to housing and public services. Primary funding for these activities is provided from the County's Capital Improvements Program and from other Federal and State funds, including Community Development Block Grants and State Community Legacy Grants.

Program Performance Measures	Actual FY22	Actual FY23	Estimated FY24	Target FY25	Target FY26
Focused Neighborhood Assistance Activity (expenditures) ¹	\$198,276	\$317,080	\$828,355	\$600,000	\$600,000
Facade Program - Private dollars leveraged	\$0	\$0	\$630,000	\$1,235,000	\$1,000,000
Focused Neighborhood Assistance Active projects	3	3	3	3	3
Focused Neighborhood Assistance beneficiaries	1,565	1,583	1,583	850	700
Facade Program - Number of businesses benefited	0	0	9	80	12

¹ FY23 activities include three active projects (Montclair Manor, Montgomery Village, and Wedgewood Projects). FY24-25 assumes construction activity for the two phased Long Branch Streetscape and Pedestrian Linkages Projects.

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	1,398,926	7.60
Decrease Cost: Miscellaneous Operating Expenses	(1,500)	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	501,983	(0.90)
FY25 Recommended	1,899,409	6.70

Rent Stabilization

This program implements Bill 15-23 Landlord-Tenant Relations- Rent Stabilization which was enacted by the Montgomery County Council on July 18, 2023, and signed into law by the Montgomery County Executive on July 24, 2023. The program will ensure the implementation and compliance of all aspects of the rent stabilization law and regulations, including but not limited to: determining annual rent increase limits for rent stabilized properties and enforcing compliance with these limits; enforcing landlord compliance with limits on fees charged to tenants; managing the application processes for and implementation of fair return, capital improvement, and substantial rehabilitation petitions for rent increases above annual limits; overseeing exemptions for rental properties from rent stabilization requirements; conducting community outreach to educate landlords and tenants about the rent stabilization law and regulations; responding to service inquiries and troubleshooting service problems related to the compliance with the rent stabilization law and regulations; investigating and enforcing remedies for noncompliance with the rent stabilization law and regulations; and enforcing landlord reporting requirements under the rent stabilization law and regulations.

FY25 Recommended Changes	Expenditures	FTEs
FY24 Approved	0	0.00
Add: Eight Positions and Associated Operating Expenses to Fully Implement the Rent Stabilization Program (Bill 15-23)	1,008,534	8.00
Add: One Manager II Position (Division Chief) for Overall Managerial Responsibilities for the New Rent Stabilization Unit	122,940	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(207,244)	0.00
FY25 Recommended	924,230	9.00

BUDGET SUMMARY

	Actual FY23	Budget FY24	Estimate FY24	Recommended FY25	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					

BUDGET SUMMARY

	Actual FY23	Budget FY24	Estimate FY24	Recommended FY25	%Chg Bud/Rec
Salaries and Wages	5,878,659	6,858,762	6,847,290	9,232,997	34.6 %
Employee Benefits	1,621,525	1,935,550	1,808,276	2,572,799	32.9 %
County General Fund Personnel Costs	7,500,184	8,794,312	8,655,566	11,805,796	34.2 %
Operating Expenses	1,880,054	1,831,406	2,391,616	2,289,123	25.0 %
Capital Outlay	229	0	0	0	—
County General Fund Expenditures	9,380,467	10,625,718	11,047,182	14,094,919	32.6 %

PERSONNEL

Full-Time	110	112	112	133	18.8 %
Part-Time	0	0	0	0	—
FTEs	65.65	69.25	69.25	90.45	30.6 %

REVENUES

Landlord-Tenant Fees	6,586,131	7,487,350	7,487,350	11,263,722	50.4 %
Common Ownership Community Fees	753,447	1,024,705	1,024,705	998,378	-2.6 %
Other Charges/Fees	(7,370)	41,500	41,500	76,155	83.5 %
Other Fines/Forfeitures	46,802	9,000	9,000	96,000	966.7 %
Miscellaneous Revenues	(1,144)	6,500	6,500	4,000	-38.5 %
Board of Appeals Fees	0	0	0	35,620	—
Other Licenses/Permits	0	3,000	3,000	657,500	—
County General Fund Revenues	7,377,866	8,572,055	8,572,055	13,131,375	53.2 %

MONTGOMERY HOUSING INITIATIVE

EXPENDITURES

Salaries and Wages	1,504,470	2,455,037	2,062,961	2,664,181	8.5 %
Employee Benefits	369,241	626,902	563,695	713,155	13.8 %
Montgomery Housing Initiative Personnel Costs	1,873,711	3,081,939	2,626,656	3,377,336	9.6 %
Operating Expenses	105,126,699	54,205,753	58,429,555	52,818,763	-2.6 %
Montgomery Housing Initiative Expenditures	107,000,410	57,287,692	61,056,211	56,196,099	-1.9 %

PERSONNEL

Full-Time	1	1	1	2	100.0 %
Part-Time	0	0	0	0	—
FTEs	18.05	22.15	22.15	23.15	4.5 %

REVENUES

Land Sale Proceeds	2,261,429	0	0	0	—
Commitment Fee	0	200,000	502,086	200,000	—
Asset Management Fee	0	70,200	70,200	70,200	—
MHI Transfer Tax	105,630	100,000	0	100,000	—
Recordation Tax	16,855,617	23,879,590	20,330,037	22,886,826	-4.2 %
Loan Payments	6,479,251	3,300,000	20,017,003	3,300,000	—
Miscellaneous Revenues	151,808	75,006	75,006	75,006	—

BUDGET SUMMARY

	Actual FY23	Budget FY24	Estimate FY24	Recommended FY25	%Chg Bud/Rec
MPDU Revenues	1,064,998	1,970,000	1,970,000	1,970,000	—
Other Financing Sources	71,480	54,510	0	0	-100.0 %
Investment Income	5,162,141	4,043,580	4,043,580	4,043,580	—
MPDU Alternative Payments	0	360,000	360,000	0	-100.0 %
HOC Contributions	5,736	4,978,750	3,808,542	3,750,000	-24.7 %
Montgomery Housing Initiative Revenues	32,158,090	39,031,636	51,176,454	36,395,612	-6.8 %

GRANT FUND - MCG

EXPENDITURES

Salaries and Wages	1,680,781	1,869,393	1,869,393	1,731,263	-7.4 %
Employee Benefits	423,249	392,108	392,108	419,246	6.9 %
Grant Fund - MCG Personnel Costs	2,104,030	2,261,501	2,261,501	2,150,509	-4.9 %
Operating Expenses	16,986,431	6,584,631	6,584,631	6,712,500	1.9 %
Capital Outlay	55,984	0	0	0	—
Grant Fund - MCG Expenditures	19,146,445	8,846,132	8,846,132	8,863,009	0.2 %

PERSONNEL

Full-Time	(1)	(1)	(1)	(2)	100.0 %
Part-Time	0	0	0	0	—
FTEs	20.50	14.80	14.80	13.40	-9.5 %

REVENUES

Federal Grants	10,925,770	6,930,829	6,930,829	6,900,829	-0.4 %
Other Intergovernmental	422,630	285,303	285,303	302,180	5.9 %
State Grants	1,115,424	630,000	630,000	660,000	4.8 %
Loan Payments	3,631,536	1,000,000	1,000,000	1,000,000	—
Investment Income	1,353,280	0	0	0	—
Grant Fund - MCG Revenues	17,448,640	8,846,132	8,846,132	8,863,009	0.2 %

DEPARTMENT TOTALS

Total Expenditures	135,527,322	76,759,542	80,949,525	79,154,027	3.1 %
Total Full-Time Positions	110	112	112	133	18.8 %
Total Part-Time Positions	0	0	0	0	—
Total FTEs	104.20	106.20	106.20	127.00	19.6 %
Total Revenues	56,984,596	56,449,823	68,594,641	58,389,996	3.4 %

FY25 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
	FY24 ORIGINAL APPROPRIATION	10,625,718 69.25

FY25 RECOMMENDED CHANGES

	Expenditures	FTEs
<u>Changes (with service impacts)</u>		
Add: Eight Positions and Associated Operating Expenses to Fully Implement the Rent Stabilization Program (Bill 15-23) [Rent Stabilization]	1,008,534	8.00
Add: Two Housing Code Inspectors and Associated Operating Expenses for Implementation of the Short-Term Residential Rental Program (Bill 22-23) [Housing Code Enforcement]	365,109	2.00
Add: Two Information Technology Positions for the Implementation of Bill 15-23 - Rent Stabilization and Bill 22-23 - Short-Term Residential Rental Programs [Administration]	287,442	2.00
Add: Two Program Specialists for the Implementation of the Short-Term Residential Rental Program (Bill 22-23) [Licensing and Registration]	232,428	2.00
Enhance: One Housing Code Inspector III Position to Meet County Mandates for the Re-inspection Program [Housing Code Enforcement]	150,354	1.00
Add: One Manager II Position (Division Chief) for Overall Managerial Responsibilities for the New Rent Stabilization Unit [Rent Stabilization]	122,940	1.00
Add: One Manager III Position to Close Operational Gaps in the Licensing and Registration Unit and Increase Revenue Generation [Licensing and Registration]	113,633	1.00
Enhance: On-going Information Technology Operating Expense for Software Licenses and Maintenance Needs for the Short-Term Residential Rental Portal. [Administration]	95,172	0.00
Enhance: One Investigator III Position to Comply with County Mandates and Meet Increased Service Demand [Common Ownership Community Program]	92,560	1.00
Enhance: One Program Manager I Position to Support Increased Service Demand in the Office of Landlord-Tenant Mediation Division [Landlord-Tenant Mediation]	92,073	1.00
Enhance: One Program Manager I Position to Provide Support for Increased Demand in the Moderately Priced Dwelling Units (MPDUs) Program [Affordable Housing Programs]	92,073	1.00
Enhance: One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection [Licensing and Registration]	86,053	1.00
Enhance: On-going Information Technology Expense to Maintain and Monitor the Case Management System and Rental Portal [Administration]	81,957	0.00
Enhance: Enforcement of the Single-Family Survey and Licensing Registration [Licensing and Registration]	79,160	0.00
Eliminate: One Vacant Lapsed Position to Better Align the Division Personnel Complement [Grants Administration - Federal Programs]	0	(0.30)
<u>Other Adjustments (with no service impacts)</u>		
Increase Cost: FY25 Compensation Adjustment	445,143	0.00
Increase Cost: Annualization of FY24 Compensation Increases	369,631	0.00
Shift: Manager II Transferred from the Office of Human Resources to Support Strategic Initiatives and New Programming [Administration]	229,205	1.00
Increase Cost: Annualization of FY24 Lapsed Positions	211,950	0.00
Increase Cost: Three Percent Inflationary Adjustment to Non-Profit Service Provider Contracts [Administration]	16,168	0.00
Increase Cost: Printing and Mail	2,603	0.00
Decrease Cost: Miscellaneous Operating Expenses [Housing Development]	(1,000)	0.00
Decrease Cost: Miscellaneous Operating Expenses [Multi-Family Housing Programs]	(1,000)	0.00
Decrease Cost: Miscellaneous Operating Expenses [Neighborhood Revitalization]	(1,500)	0.00
Decrease Cost: Miscellaneous Operating Expenses [Common Ownership Community Program]	(4,000)	0.00
Decrease Cost: Retirement Adjustment	(8,178)	0.00
Decrease Cost: Miscellaneous Operating Expenses [Administration]	(15,682)	0.00

FY25 RECOMMENDED CHANGES

	Expenditures	FTEs
Decrease Cost: Miscellaneous Operating Expenses [Housing Code Enforcement]	(16,180)	0.00
Decrease Cost: Motor Pool Adjustment	(36,394)	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY24	(42,590)	0.00
Shift: Tax-Supported Charge Backs to the Office of County Attorney [Administration]	(114,438)	(0.50)
Decrease Cost: Annualization of FY24 Personnel Costs	(464,025)	0.00
FY25 RECOMMENDED	14,094,919	90.45

MONTGOMERY HOUSING INITIATIVE

	FY24 ORIGINAL APPROPRIATION	57,287,692	22.15
<u>Changes (with service impacts)</u>			
Add: One Program Manager II Position to Support Operational and Increased Loan Servicing Needs [Administration]	98,693		1.00
<u>Other Adjustments (with no service impacts)</u>			
Increase Cost: Operating Expenses to Reflect the Debt Service Transfer for the Housing Capital Improvements Program and the Housing Opportunities Commission Production Fund [Administration]	861,080		0.00
Increase Cost: Adjust Operating Expenses to Reflect Delta Between the FY24 and FY25 General Fund Transfer [Administration]	417,029		0.00
Increase Cost: FY25 Compensation Adjustment	120,272		0.00
Increase Cost: Annualization of FY24 Compensation Increases	90,870		0.00
Increase Cost: Three Percent Inflationary Adjustment to Non-Profit Service Provider Contracts [Administration]	65,931		0.00
Decrease Cost: Retirement Adjustment	(2,186)		0.00
Decrease Cost: Annualization of FY24 Personnel Costs	(6,119)		0.00
Decrease Cost: Adjust Other Revenue Sources in the Housing Initiative Fund [Administration]	(515,649)		0.00
Decrease Cost: Rental Assistance Program Due to Decreased Recordation Tax Premium Estimates [Administration]	(992,764)		0.00
Decrease Cost: Housing Opportunities Commission (HOC) Production Fund Contributions to the Housing Initiative Fund [Administration]	(1,228,750)		0.00
FY25 RECOMMENDED	56,196,099		23.15

GRANT FUND - MCG

	FY24 ORIGINAL APPROPRIATION	8,846,132	14.80
<u>Federal/State Programs</u>			
Add: Community Bridges, Inc. - Community Bridges Alumnae Program	45,000		0.00
Add: Community Reach of Montgomery County, Inc. - Mansfield Kaseman Health Clinic	45,000		0.00
Add: Homes Not Borders, Inc. - Home Set Ups and Moving Up Fund for Refugees and Migrants	40,000		0.00
Add: Montgomery Housing Partnership, Inc. - MHP's Workforce Development Program	40,000		0.00
Add: United Way of the National Capital Area - Community Schools Model	40,000		0.00
Add: Collegiate Directions, Inc. - Career Mentoring Initiative	40,000		0.00
Add: Mobile Medical Care, Inc. - Keeping Focused on Diabetic Eye Health	36,734		0.00

FY25 RECOMMENDED CHANGES

	Expenditures	FTEs
Add: Arts for the Aging, Inc. - Sustaining Health Equity Through the Participatory Arts	35,733	0.00
Add: Ayuda, Inc. - Domestic Violence & Family Law Survivors Program	35,000	0.00
Add: EveryMind, Inc. - Case Manager: Rep Payee and Friendly Visitor	35,000	0.00
Add: Latino Economic Development Corporation - LEDC Tenant Services and Eviction Prevention	34,920	0.00
Add: Horizons Greater Washington, Inc. - HGW School Year Saturday Academy - Montgomery County	34,108	0.00
Add: Community Reach of Montgomery County, Inc. - Rockville Emergency Assistance Program (REAP)	33,000	0.00
Add: Korean Community Service Center of Greater Washington, Inc. - Strengthening Asian Families through Empowerment and Service (SAFES)	32,533	0.00
Add: Food and Friends, Inc. - Improving the Lives and Health of the Most Vulnerable	32,115	0.00
Add: Community FarmShare LLC - Farm to Family Nutrition Access	29,965	0.00
Add: Germantown Cultural Arts Center, Inc. - Beyond BlackRock: Positive Youth Development Arts Outreach Programming	25,000	0.00
Add: Liberty's Promise, Inc. - Helping the Immigrant Youth of Montgomery County Succeed	25,000	0.00
Add: Bethesda African Cemetery Coalition, Inc. - The Bridge That Carried Us Over: Education for the 21st Century	20,892	0.00
Other Adjustments (with no service impacts)		
Technical Adj: Realign Budget Allocation Between PC and OE to Meet the Estimated Grant Amount [Grants Administration - Federal Programs]	113,914	0.00
Increase Cost: Takoma Park Code Enforcement Contract [Grants Administration - Federal Programs]	16,877	0.00
Decrease Cost: Abolish Two Vacant Lapsed Positions to Better Realign Personnel Complement [Grants Administration - Federal Programs]	0	(1.40)
Decrease Cost: Annualization of FY24 Personnel Costs	(113,914)	0.00
Decrease Cost: Community Development Block Grant (CDBG) Adjustments [Grants Administration - Federal Programs]	(660,000)	0.00
FY25 RECOMMENDED	8,863,009	13.40

PROGRAM SUMMARY

Program Name	FY24 APPR Expenditures	FY24 APPR FTEs	FY25 REC Expenditures	FY25 REC FTEs
Administration	2,535,552	13.70	3,625,687	20.60
Affordable Housing Programs	1,138,019	6.50	1,281,090	7.00
Common Ownership Community Program	1,011,332	6.15	1,193,995	7.15
Grants Administration - Federal Programs	9,346,977	6.70	8,119,739	5.00
Housing Code Enforcement	5,454,198	39.50	6,325,077	42.50
Housing Development	443,491	3.95	266,054	1.95
Landlord-Tenant Mediation	2,010,286	10.00	2,601,363	11.00
Licensing and Registration	486,925	3.20	1,012,798	7.20
Multi-Family Housing Programs	52,933,836	8.90	51,904,585	8.90
Neighborhood Revitalization	1,398,926	7.60	1,899,409	6.70
Rent Stabilization	0	0.00	924,230	9.00

PROGRAM SUMMARY

Program Name	FY24 APPR Expenditures	FY24 APPR FTEs	FY25 REC Expenditures	FY25 REC FTEs
Total	76,759,542	106.20	79,154,027	127.00

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY24 Total\$	FY24 FTEs	FY25 Total\$	FY25 FTEs
COUNTY GENERAL FUND					
Permitting Services	Permitting Services	118,842	1.00	124,587	1.00
Recycling and Resource Management	Solid Waste Disposal	776,562	5.50	849,898	5.50
CIP	Capital Fund	179,460	1.70	200,300	1.40
Total		1,074,864	8.20	1,174,785	7.90

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY25	FY26	FY27	FY28	FY29	FY30
COUNTY GENERAL FUND						
EXPENDITURES						
FY25 Recommended	14,095	14,095	14,095	14,095	14,095	14,095
No inflation or compensation change is included in outyear projections.						
Annualization of Positions Recommended in FY25	0	2,124	2,124	2,124	2,124	2,124
New positions in the FY25 budget are generally assumed to be filled at least two months after the fiscal year begins. Therefore, the above amounts reflect annualization of these positions in the outyears.						
Elimination of One-Time Items Recommended in FY25	0	(273)	(273)	(273)	(273)	(273)
Items recommended for one-time funding in FY25, including one-time operating expenses for new positions, will be eliminated from the base in the outyears.						
Labor Contracts	0	208	208	208	208	208
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	14,095	16,154	16,154	16,154	16,154	16,154
MONTGOMERY HOUSING INITIATIVE						
EXPENDITURES						
FY25 Recommended	56,196	56,196	56,196	56,196	56,196	56,196
No inflation or compensation change is included in outyear projections.						
Annualization of Positions Recommended in FY25	0	123	123	123	123	123
New positions in the FY25 budget are generally assumed to be filled at least two months after the fiscal year begins. Therefore, the above amounts reflect annualization of these positions in the outyears.						
Elimination of One-Time Items Recommended in FY25	0	(5)	(5)	(5)	(5)	(5)

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY25	FY26	FY27	FY28	FY29	FY30
Items recommended for one-time funding in FY25, including one-time operating expenses for new positions, will be eliminated from the base in the outyears.						
Labor Contracts	0	61	61	61	61	61
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	56,196	56,375	56,375	56,375	56,375	56,375

ANNUALIZATION OF FULL PERSONNEL COSTS

	FY25 Recommended		FY26 Annualized	
	Expenditures	FTEs	Expenditures	FTEs
One Program Manager I Position to Provide Support for Increased Demand in the Moderately Priced Dwelling Units (MPDUs) Program	85,940	1.00	114,576	1.00
One Housing Code Inspector III Position to Meet County Mandates for the Re-inspection Program	85,940	1.00	114,576	1.00
One Program Manager I Position to Support Increased Service Demand in the Office of Landlord-Tenant Mediation Division	85,940	1.00	114,576	1.00
One Manager III Position to Close Operational Gaps in the Licensing and Registration Unit and Increase Revenue Generation	107,250	1.00	142,996	1.00
One Program Specialist II Position to Close Operational Gaps within Licensing and Registration and Increase Revenue Collection	79,920	1.00	106,554	1.00
One Investigator III Position to Comply with County Mandates and Meet Increased Service Demand	92,560	1.00	123,410	1.00
One Program Manager II Position to Support Operational and Increased Loan Servicing Needs	92,560	1.00	123,410	1.00
Total	630,110	7.00	840,098	7.00

FY25-30 PUBLIC SERVICES PROGRAM: FISCAL PLAN

Montgomery Housing Initiative

FISCAL PROJECTIONS	FY24 APPROVED	FY24 ESTIMATE	FY25 REC	FY26 PROJECTION	FY27 PROJECTION	FY28 PROJECTION	FY29 PROJECTION	FY30 PROJECTION
ASSUMPTIONS								
Indirect Cost Rate	17.96%	17.96%	19.96%	19.96%	19.96%	19.96%	19.96%	19.96%
CPI (Fiscal Year)	2.1%	2.9%	2.1%	2.2%	2.2%	2.2%	2.3%	2.3%
Investment Income Yield	5.0%	5.3%	4.8%	4.0%	4.0%	4.0%	3.5%	3.3%
BEGINNING FUND BALANCE	15,555,321	10,965,827	14,249,457	2,359,800	1,373,700	357,900	30,900	31,900
REVENUES								
Taxes	23,979,590	20,330,037	22,986,826	25,090,587	26,213,429	27,154,193	28,990,239	30,330,879
Charges For Services	5,048,950	3,878,742	3,820,200	5,071,758	5,073,301	5,074,884	5,076,576	5,078,330
Miscellaneous	10,003,096	26,967,675	9,588,586	9,588,586	9,588,586	9,588,586	9,588,586	9,588,586
Subtotal Revenues	39,031,636	51,176,454	36,395,612	39,750,931	40,875,316	41,817,663	43,655,401	44,997,795
INTERFUND TRANSFERS (Net Non-CIP)								
Transfers To Debt Service Fund	(19,155,600)	(19,155,600)	(18,294,520)	(24,289,790)	(26,891,400)	(28,717,300)	(29,722,000)	(31,727,300)
MHI HOC Housing Production Fund	(5,771,000)	(5,771,000)	(5,119,500)	(7,172,100)	(7,170,300)	(7,168,800)	(7,172,900)	(7,172,300)
MHI Property Acquisition	(13,384,600)	(13,384,600)	(13,175,020)	(17,117,690)	(19,721,100)	(21,548,500)	(22,549,100)	(24,555,000)
Transfers To The General Fund	(553,516)	(553,516)	(674,116)	(674,116)	(674,116)	(674,116)	(674,116)	(674,116)
Indirect Costs	(553,516)	(553,516)	(674,116)	(674,116)	(674,116)	(674,116)	(674,116)	(674,116)
Transfers From The General Fund	33,257,439	33,257,439	33,674,468	33,674,468	33,674,468	33,674,468	33,674,468	33,674,468
From General Fund	33,257,439	33,257,439	33,674,468	33,674,468	33,674,468	33,674,468	33,674,468	33,674,468
TOTAL RESOURCES	68,135,280	75,690,604	65,350,901	50,821,293	48,357,968	46,458,615	46,964,653	46,302,747
PSP OPER. BUDGET APPROP/ EXP'S.								
Operating Budget	(3,525,390)	(37,609,211)	(3,826,919)	(3,826,919)	(3,826,919)	(3,826,919)	(3,826,919)	(3,826,919)
Debt Service: Other (Non-Tax Funds only)	(54,510)	(54,510)	0	0	0	0	0	0
Rental Assistance Program (RAP)	(23,879,590)		(22,886,826)	(25,090,587)	(26,213,429)	(27,154,193)	(28,990,239)	(30,330,879)
Affordable Housing Loans	(13,946,104)	(23,392,490)	(13,534,323)	(4,429,552)	(1,703,231)	972,529	2,477,042	4,662,607
HHS Housing Programs	(9,706,200)		(9,706,200)	(9,706,200)	(9,706,200)	(9,706,200)	(9,706,200)	(9,706,200)
Neighborhoods to Call Home	(1,875,899)		(1,932,731)	(1,932,731)	(1,932,731)	(1,932,731)	(1,932,731)	(1,932,731)
HARP (Design for Life)	(300,000)		(309,100)	(309,100)	(309,100)	(309,100)	(309,100)	(309,100)
Homeownership Assistance Program	(4,000,000)	n/a	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)
Subtotal PSP Oper Budget Approp / Exp's	(57,287,693)	(61,056,211)	(56,196,099)	(49,447,593)	(48,000,068)	(46,427,715)	(46,932,753)	(46,269,847)
OTHER CLAIMS ON FUND BALANCE	(7,937,288)	(384,936)	(6,795,002)	0	0	0	0	0
TOTAL USE OF RESOURCES	(65,224,981)	(61,441,147)	(62,991,101)	(49,447,593)	(48,000,068)	(46,427,715)	(46,932,753)	(46,269,847)
YEAR END FUND BALANCE	2,910,299	14,249,457	2,359,800	1,373,700	357,900	30,900	31,900	32,900
END-OF-YEAR RESERVES AS A PERCENT OF RESOURCES	4.3%	18.8%	3.6%	2.7%	0.7%	0.1%	0.1%	0.1%

Assumptions:

- Approximately \$63 million, including \$56.2 million in new funding, will be allocated in this fund to support the acquisition and preservation of affordable housing units, renovation of distressed housing, creation of housing units for special needs residents and mixed-income housing, first-time homeowner downpayment assistance, rental assistance, and a variety of services for permanent supportive housing and community development.
- A total of \$113.2 million will be funded through the FY25-30 CIP Budget in support of affordable housing, including \$97 million for the Affordable Housing Acquisition and Preservation CIP Project# 760100, \$15 million for the Nonprofit Preservation Fund CIP Project# 762301, and \$1.23 million to create a new revolving loan program for the Revitalization of Troubled and Distressed Common Ownership Communities CIP Project# 762504.
- A supplemental Request totaling \$19.999 million in loan repayments for the Nonprofit Preservation Fund CIP Project#762301 was introduced by the Council on February 27, 2024.
- Montgomery County Council Resolution #15-110 provides for an allocation from the General Fund to the Montgomery Housing Initiative fund (MHI) of the equivalent to 2.5% of actual General Fund property taxes from two years prior to the upcoming fiscal year for the purpose of maintaining and expanding the supply of affordable housing. However, the actual transfer from the General Fund will be determined each year based on the availability of resources.

Notes:

- These projections are based on the Executive's Recommended budget and include the revenue and resource assumptions of that budget. The projected future expenditures, revenues, and fund balances may vary based on changes not assumed here to fee or tax rates, usage, inflation, future labor agreements, and other factors not assumed here.
- Operating budget includes personnel costs, contracts for homeownership education, and miscellaneous expenses for consultants, technology upgrades and loan asset monitoring.

AFFORDABLE HOUSING SUPPORT SUMMARY						
Funding Sources	FY23 Approved Budget	Total County Resources (FY08 - FY23)	Avg Resources FY08-FY23	FY24 Approved Budget	FY25 Recommended Budget	Notes
Operating Budget Expenditures						
DHCA - MHI Operating Budget	49,090,423	490,734,501	29,442,939	49,681,692	56,196,099	MHI Debt Service Interest in FY25 includes the Taxable Housing Certificates issued for HOC Production Fund. Clients Served
DHCA - MHI Debt Service (interest only)	4,787,383	45,954,897	2,744,501	7,225,931	5,771,000	
HHS - General Fund - Housing Programs	30,962,294	184,818,260	10,257,064	46,931,755	30,587,717	
HOC - Non-Departmental Account	7,633,168	101,652,350	6,267,945	7,972,501	8,295,315	
Total Operating Budget	92,473,268	823,160,008	48,712,449	111,811,879	100,850,131	
Affordable Housing Acquisition and Preservation Project (CIP)						
MHI		4,775,000	397,917		65,000,000	Include \$35 million FY24 supplemental pending Council approval
HIF Revolving Loan Program	14,896,000	198,430,000	12,235,600	19,277,000	17,355,000	
Loan Repayment Proceeds (actual)	21,854,000	98,800,507	5,129,767	2,723,000	4,645,000	
G.O. Bonds		-	-			
Recordation Tax Premium	-	4,544,540	504,949	10,000,000	10,000,000	
DHCA - Affordable Housing Acquisition and Preservation Project (CIP) - Total	36,750,000	306,550,047	18,268,233	32,000,000	97,000,000	
Nonprofit Preservation Fund					50,000,000	
Affordable Housing Opportunity Fund (CIP)	6,000,000	20,000,000	20,000,000	-	-	
Preservation of Naturally Occurring Affordable Housing (NOAH) Fund	40,000,000	40,000,000	-	-	-	
DHCA - Payment in Lieu of Taxes (Non-HOC PILOTS)	20,624,755	212,105,511	12,765,384	20,624,755	24,037,676	
DHCA - Payment in Lieu of Taxes (HOC PILOTS)	10,593,592	146,024,396	9,028,720	11,123,275	10,829,436	
DGS - Discounted Land Value	1,500,000	57,790,913	8,041,559	-	-	
Total Affordable Housing Support	206,441,615	1,605,630,876	116,816,345	175,559,909	282,717,243	

THIS PAGE INTENTIONALLY LEFT BLANK



Committee: Joint
Committee Review: Completed
Staff: Naeem M. Mia, Legislative Analyst
Purpose: Final action – vote expected

AGENDA ITEMS #8
December 12, 2023
Action

SUBJECT

Special Appropriation #24-14 to the FY24 Operating Budget, Montgomery County Government, Department of Housing and Community Affairs (DHCA), Rent Stabilization Bill 15-23, \$1,347,470 (Source of Funds: General Fund Undesignated Reserves)

EXPECTED ATTENDEES

Scott Bruton, Director, DHCA
Pofen Salem, Chief of Finance and Administration, DHCA

DESCRIPTION

The Council introduced this Special Appropriation #24-14 on October 24, 2023. The County Executive transmitted this special appropriation request on August 31, 2023. The Planning, Housing, and Parks (PHP) and Government Operations and Fiscal Policy (GO) Joint Committee held a worksession on December 4, 2023. The source of funds is General Fund Undesignated Reserves.

JOINT COMMITTEE RECOMMENDATION

The Joint Committee recommends 4-1 (Friedson opposed) to **approve a special appropriation of \$910,304, including \$349,764 for nine (9.0) full-time equivalent positions and \$560,540 for operating expenses.** *Personnel costs assumed a revised start date of March 2024.*

SUMMARY OF KEY DISCUSSION POINTS

Background. The Council passed Bill 15-23 (Landlord-Tenant Relations - Rent Stabilization) on July 18, 2023. As part of the bill's requirements, the Department of Housing and Community Affairs (DHCA) will be responsible for reviewing and approving certain rent increases, grant exemptions, and generally managing the program.

Request. The new Rent Stabilization Office will manage the annual rent increase reporting requirements; enforce compliance with the rent stabilization law and regulations; manage tenant complaints; the application and appeals processes for the fair return, capital improvement, and substantial rehabilitation petitions; conduct community outreach; respond to service inquiries and troubleshoot service problems; and investigate and enforce remedies for noncompliance. In addition, the Department of Housing and Community Affairs must develop an online website related to all rent stabilization matters, including landlord petitions and tenant complaints, and a portal for landlords to report the mandated rent increase data.

The original request, as transmitted to the Council on August 31, 2023, funds the new Office at an estimated FY24 cost of \$1,347,470, including personnel costs of \$786,930 (including nine full-time positions, or 9.0 FTEs) and operating expenses of \$560,540. *Personnel costs assume a start date of October 2023.*

Fiscal Impact. The recommended special appropriation is funded by General Fund reserves. Based on Council staff’s analysis as of November 27, 2023, the Council has approved \$2,034,788 of supplemental and special appropriations to date in FY24 reducing the general fund reserves from 11.6% to 11.5%. Another \$18,239,421 of requests (including the subject of this memorandum) is currently pending review and/or action; if all pending requests are approved by Council, general fund reserves would be at 11.2%.

Racial Equity and Social Justice Impact. In its analysis of Bill 15-23, the Office of Legislative Oversight (OLO) anticipates that the bill will have a *small positive impact* on racial equity and social justice (RESJ) in the County. While the proposed rent regulations would disproportionately benefit Black and Latinx tenants, the magnitude of the allowable rent increases could still displace cost-burdened Black and Latinx households. Further, the Bill contains no provisions to prevent tenant displacement. Nonetheless, the Bill *could prevent more excessive rent increases* that could worsen current racial inequities in housing insecurity.

More details are available here: <https://www.montgomerycountymd.gov/olo/impact-statements.html>

This report contains:

- | | |
|--|--------|
| 1. Staff Memorandum for PHP/GO Joint Committee worksession dated November 30, 2023 | © 1-4 |
| 2. Executive’s Transmittal Memo dated August 31, 2023 | © 5-6 |
| 3. Draft Resolution Approving Appropriation | © 7-8 |
| 4. FIS for Bill 15-23 | © 9-10 |

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

November 30, 2023

TO: Planning, Housing, & Parks (PHP) and Government Operations & Fiscal Policy (GO) Joint Committee

FROM: Naeem M. Mia, Legislative Analyst

SUBJECT: **Special Appropriation #24-14 to the FY24 Operating Budget, Montgomery County Government, Department of Housing and Community Affairs, Rent Stabilization Bill 15-23 - \$1,374,470 (Source of Funds: General Fund: Undesignated Reserves)**

PURPOSE: Develop recommendations for Council action

Participants

- Scott Bruton, Director, Department of Housing and Community Affairs (DHCA)
- Pofen Salem, Chief of Finance and Administration, DHCA
- Anita Aryeetey, Senior Fiscal and Policy Analyst, Office of Management and Budget (OMB)

On December 4, 2023, the Joint Committee will review the County Executive's special appropriation request, transmitted to the Council on August 31, 2023, to implement Bill 15-23 Landlord-Tenant Relations - Rent Stabilization as approved by the Council on July 18, 2023, and signed into law by the County Executive on July 24, 2023. The source of funds is General Fund: Undesignated Reserves.

On November 7, 2023, the Council held a public hearing for this appropriation request. A total of four speakers testified (including the director of DHCA); all four testified in support of approving the request.

A. Current Status of FY24 General Fund Reserves and Fiscal Impact Statement for Bill 15-23

Based on Council staff's analysis as of November 27, 2023, the Council has approved \$2,034,788 of supplemental and special appropriations to date in FY24 reducing the general fund reserves from 11.6% to 11.5%. Another \$18,239,421 of requests (including the subject of this memorandum) is currently pending review and/or action; if all pending requests are approved by Council, general fund reserves would be at 11.2%.

The Fiscal Impact Statement (FIS) for Bill 15-23 initially estimated a total of eight (8) positions necessary to implement the bill; amendments and modifications to Bill 15-23 has resulted in the Executive

requesting one (1) additional position (a Grade 21 Program specialist II) to support implementation. The FIS also estimated revenues from citations of about \$23,500 annually. See circles 5-6 for the original FIS.

B. Scope of Duties for Office of Rent Stabilization within DHCA

As part of the bill’s requirements, DHCA will be responsible for reviewing and approving certain rent increases, grant exemptions, and generally managing the program. The new Rent Stabilization Office will perform the following functions envisioned at this time:

- manage the annual rent increase reporting requirements;
- enforce compliance with the rent stabilization law and regulations;
- manage tenant complaints; the application and appeals processes for the fair return, capital improvement, and substantial rehabilitation petitions;
- conduct community outreach;
- respond to service inquiries and troubleshoot service problems; and
- investigate and enforce remedies for noncompliance.

DHCA must also develop an online website related to all rent stabilization matters, including landlord petitions and tenant complaints, and an online portal for landlords to report the mandated rent increase data.

C. Executive’s Request (October 2023 Start Date)

The Executive’s request funds the new Rent Stabilization Office at an estimated FY24 cost of \$1,347,470, including personnel costs of \$786,930 (including nine full-time positions, or 9.0 FTEs) and operating expenses of \$560,540. Operating costs estimated in the appropriation request are in line with the FIS. The full-year annualized cost starting in FY25 (assuming no compensation adjustments and removal of one-time expenses) is \$1,134,645.

Table 1 provides an annualized detail of each position and its personnel costs based on current compensation agreements, as well as the FY24 cost based on a start date of October 23 for all positions (i.e., assuming three-month lapse in FY24). Table 2 provides detail on one-time costs and ongoing costs to be incurred in FY24. Table 3 displays DHCA’s currently approved FY24 operating budget (general fund portion only) and the impact of the request as approved.

Table 1. Personnel Costs based on Annualized Costs and Estimated Impact in FY24.

Personnel Costs	Grade	FTE	Annualized FY24 PC	Assuming Start Date of October 2023
Administrative Specialist III	G23	1.0	\$ 113,400	\$ 85,050
Investigator III	G25	1.0	\$ 122,234	\$ 91,675
Program Specialist II	G21	4.0	\$ 421,510	\$ 316,144
Program Manager I	G23	1.0	\$ 113,400	\$ 85,050
Sr. IT Specialist III	G28	1.0	\$ 136,862	\$ 102,646
Manager III	MIII	1.0	\$ 141,820	\$ 106,365
Total Personnel Costs (PC)		9.00	\$ 1,049,225	\$ 786,930

Table 2. Operating Costs in FY24.

Operating Expenses	One-time	Ongoing	Total
Program Operations (furniture, equipment, etc.)	\$ 40,770	\$ 5,850	\$ 46,620
Website and Case Management System	\$ 169,350	\$ 3,500	\$ 172,850
Online Portal for Rent Data Monitoring	\$ 265,000	\$ 76,070	\$ 341,070
Total Operating Expenses (OE)	\$ 475,120	\$ 85,420	\$ 560,540

Table 3. FY24 Approved Operating Budget (General Fund) and Impact of Request.

Operating Budget (General Fund)	# of Positions	FTEs	PC	OE	Total
FY24 Approved	110	65.65	\$ 8,794,312	\$ 1,831,406	\$ 10,625,718
w/ Special Appropriation Request	9	9.00	\$ 786,930	\$ 560,540	\$ 1,347,470
Total	119	74.65	\$ 9,581,242	\$ 2,391,946	\$ 11,973,188
% Increase vs. Approved	8.18%	13.71%	8.95%	30.61%	12.68%

D. Updated Assumptions from DHCA (January 2024 Start Date)

As the Executive' initial request had assumed a start of October 2023 for the nine positions, DHCA and OMB revised the start date to January 2024 (i.e., a six-month lapse for FY24). As a result, the position costs are updated as follows in Table 4:

Table 4. Personnel Costs based on January 2024 Start Date.

Personnel Costs	Grade	FTE	Assuming Start Date of October 2023	Assuming Start Date of January 2024
Administrative Specialist III	G23	1.0	\$ 85,050	\$ 56,700
Investigator III	G25	1.0	\$ 91,675	\$ 61,120
Program Specialist II	G21	4.0	\$ 316,144	\$ 210,760
Program Manager I	G23	1.0	\$ 85,050	\$ 56,700
Sr. IT Specialist III	G28	1.0	\$ 102,646	\$ 68,440
Manager III	MIII	1.0	\$ 106,365	\$ 70,910
Total Personnel Costs (PC)		9.00	\$ 786,930	\$ 524,630

Estimated operating costs for FY24 continue to remain at \$560,450. Therefore, the total cost of FY24 based on the updated personnel cost assumptions totals \$1,085,170, or \$262,300 (or 19%) less than the Executive's initial request.

E. Additional Options (March 2024 Start Date)

Based on recent hiring trends, the County can expect to fill a new position between three to five months once a position is approved (funded) and posted publicly. Therefore, Council staff concludes that a starting of March 2024 is more realistic (which may stretch into May or June 2024). Council staff also note that the executive regulations implementing Bill 15-23 are also under development by DHCA;

the rent stabilization program cannot fully begin until the regulations are reviewed and approved by Council. Table 5 contains details on each position’s cost if assuming a start date of March 2024 (i.e., a nine-month lapse for FY24).

Table 5. Personnel Costs based on March 2024 Start Date.

Personnel Costs	Grade	FTE	Assuming Start Date of October 2023	Assuming Start Date of March 2024
Administrative Specialist III	G23	1.0	\$ 85,050	\$ 21,262
Investigator III	G25	1.0	\$ 91,675	\$ 22,920
Program Specialist II	G21	4.0	\$ 316,144	\$ 105,380
Program Manager I	G23	1.0	\$ 85,050	\$ 21,262
Sr. IT Specialist III	G28	1.0	\$ 102,646	\$ 25,670
Manager III	MIII	1.0	\$ 106,365	\$ 26,591
Total Personnel Costs (PC)		9.00	\$ 786,930	\$ 223,086

Estimated operating costs for FY24 continue to remain at \$560,450. Therefore, the total cost of FY24 based on the updated personnel cost assumptions totals \$783,526, or \$563,844 (or 42%) *less* than the Executive’s initial request.

Attachments

Circle

- | | |
|---|-------|
| 1. Executive’s Transmittal Memo dated August 31, 2023 | © 1-2 |
| 2. Draft Resolution Approving Appropriation | © 3-4 |
| 3. FIS for Bill 15-23 | © 5-6 |



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

August 31, 2023

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: Special Appropriation #24-14 to the FY24 Operating Budget
Montgomery County Government,
Department of Housing and Community Affairs
Rent Stabilization Bill, \$1,347,470 (Source of Funds: General Fund:
Undesignated Reserves)

I am recommending a special appropriation to the FY24 Operating Budget in the amount of \$1,347,470 for the implementation of the Rent Stabilization Bill 15-23 as passed by the County Council on July 18, 2023, and signed into law on July 24, 2023. Appropriation for the rent stabilization program will ensure the timely execution of this bill.

The Montgomery County Council set a six-month timeline to complete the promulgation of regulations and enforce the new rent stabilization program. This special appropriation is required to establish a new Rent Stabilization Office and information technology infrastructure essential for implementation of Bill 15-23. The funds will be utilized to hire personnel to manage the annual rent increase reporting requirements; enforce compliance with the rent stabilization law and regulations; manage tenant complaints; the application and appeals processes for the fair return, capital improvement, and substantial rehabilitation petitions; conduct community outreach; respond to service inquiries and troubleshoot service problems; and investigate and enforce remedies for noncompliance. In addition, the Department of Housing and Community Affairs must develop an online website related to all rent stabilization matters, including landlord petitions and tenant complaints, and a portal for landlords to report the mandated rent increase data.

I recommend that the County Council approve this appropriation request to the FY24 Operating Budget in the amount of \$1,347,470 and specify the source of funds as General Fund: Undesignated Reserves.

Special Appropriation #24-14 to the FY24 Operating Budget
Montgomery County Government, Department of Housing and Community Affairs
Rent Stabilization Bill, \$1,347,470
August 31, 2023
Page 2 of 2

I appreciate your prompt consideration of this action.

ME:nk

Enclosure: Special Appropriation #24-14 to the FY24 Operating Budget

cc: Scott Bruton, Director, Department of Housing and Community Affairs
Jennifer Bryant, Director, Office of Management and Budget

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Special Appropriation #24-14 to the Fiscal Year 2024 Operative Budget
Montgomery County Government
Department of Housing and Community Affairs
Rent Stabilization Bill 15-23
\$1,347,470 (Source of Funds: General Fund: Undesignated Reserves)

Background

1. Section 308 of the Montgomery County Charter provides that a special appropriation: (a) may be made at any time after public notice by news release; (b) must state that the special appropriation is necessary to meet an unforeseen disaster or other emergency or to act without delay in the public interest; (c) must specify the revenues necessary to finance it; and (d) must be approved by no fewer than seven members of the Council.
2. The County Executive has requested the following FY24 Operating Budget appropriation increases for the Department of Housing and Community Affairs:

<u>Personnel</u> <u>Services</u>	<u>Operating</u> <u>Expenses</u>	<u>Total</u>	<u>Source of</u> <u>Funds</u>
\$786,930	\$560,540	\$1,347,470	General Fund: Undesignated Reserves

3. On July 18, 2023, the Montgomery County Council passed Bill 15-23, which will implement rent stabilization in Montgomery County. This critical legislation will have the ability to provide security for 35% of Montgomery County residents and is a great step toward ensuring the safety and stability in an equitable manner. The Bill takes effect 90 days after the County Executive signs into law, pending Method 2 Regulations being approved by the County Council. To ensure its effective implementation, the Council acknowledged the increased costs for the Department to carry out this legislation successfully.
4. The special appropriation would allow for the hiring of nine positions to ensure timely compliance with Council directives and proper implementation of the new law.

5. The County Executive recommends a special appropriation to the FY24 Operating Budget in the amount of \$1,347,470 and specifies the source of funds as General Fund: Undesignated Reserves.
6. The public was notified by a news release.

Action

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

1. A special appropriation to the FY24 Operating Budget of the Department of Housing and Community Affairs is approved as follows:

<u>Personnel</u> <u>Services</u>	<u>Operating</u> <u>Expenses</u>	<u>Total</u>	<u>Source of</u> <u>Funds</u>
\$786,930	\$560,540	\$1,347,470	General Fund: Undesignated Reserves

2. The County Council declares that this action is necessary to act without delay in the public interest, and that this appropriation is needed to meet the emergency.

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council

Fiscal Impact Statement

Office of Management and Budget

Bill 15-23

Landlord-Tenant Relations - Anti-Rent Gouging Protections

Bill Summary

Bill 15-23 sets an annual rental increase cap of eight percent plus the Consumer Price Index (CPI-U) for the Washington-Arlington-Alexandria Area for regulated rental units. The Department of Housing and Community Affairs (DHCA) must annually calculate this a rental increase cap for regulated units, publish it, and it remains in effect for the 12-month period beginning each July 1. The bill provides for exemptions under certain circumstances and limited surcharges for capital improvements.

Fiscal Impact Summary

In FY24, expenditures increase by \$1.23 million, and revenues increase by \$23,500 for a net impact of \$1.20 million. First year costs represent personnel costs of \$672,000 and operating expenses of \$555,360. Beginning in FY25 and beyond, expenditures increase by approximately \$980,800 each year, and revenues increase by approximately \$26,900 in FY26 escalating annually until it reaches approximately \$33,000 by FY29. The bill would also require an additional 8.0 FTEs to implement beginning in FY24.

Fiscal Year	24	25	26	27	28	29	Total
Personnel Costs	\$672,034	\$940,847	\$987,890	\$1,037,284	\$1,089,148	\$1,143,606	\$5,870,809
Operating Expenses	\$555,360	\$87,313	\$89,932	\$92,630	\$95,409	\$98,272	\$1,018,916
Total Expenditures	\$1,227,394	\$1,028,160	\$1,077,822	\$1,129,914	\$1,184,557	\$1,241,878	\$6,889,725
Revenues	\$23,500	\$25,145	\$26,905	\$28,789	\$30,804	\$32,960	\$168,103
Total Impact	(\$1,203,894)	(\$1,003,015)	(\$1,050,917)	(\$1,101,125)	(\$1,153,753)	(\$1,208,918)	(\$6,721,622)
FTE	8.00	8.00	8.00	8.00	8.00	8.00	

To implement the bill, DHCA advises that it would need to create a new Anti-Rent Gouging Protections Office. Staff would be required to review and manage annual rent reports and compliance with the newly proposed rent increase guidelines; manage capital improvement and financial hardship petitions, tenant complaints and the appeal process; conduct community outreach; respond to service inquiries; and investigate and enforce remedies for noncompliance. Based on the assumed workload, this new Office would require 8.0 FTEs as shown in the chart below:

Fiscal Impact Analysis



Position	Grade	FTEs	Annualized Personnel Costs
Program Specialist II	G21	3.00	\$300,400
Administrative Specialist III	G23	1.00	\$107,700
Program Manager I	G23	1.00	\$107,700
Investigator III	G25	1.00	\$116,015
Sr. IT Specialist III	G28	1.00	\$129,900
Manager III	MIII	1.00	\$134,500
Total PC		8.00	\$896,045

The FY24 personnel costs for these positions are estimated at \$672,034, assuming a start date of October 2023.

FY24 operating expenses are estimated to total \$555,360, including one-time expenses of \$470,770 and annualized expenses of \$84,590 as follows.

The associated operating expenses to support the required personnel complement are approximately \$41,400, including one-time costs of \$36,420 in FY24 and \$5,200 annually. Additionally, DHCA would need to develop an anti-gauging protections website and case management system. Based on previous experience developing websites and case management systems, the total estimated costs in the first year could be \$172,850, which includes initial start-up costs of \$169,350 plus an ongoing annual cost of \$3,500 to provide technical support and required maintenance. DHCA would also need to develop an online portal for landlords to report the mandated rent increase data at a one-time cost of \$265,000. Annual operating expenses for the office are estimated to total \$76,070 for office operating expenses.

Annual revenues are expected to be \$23,500 in FY24 from the issuance and collection of Class A citations. Based on the 7% average annual growth rate of multifamily buildings in Montgomery County over the past five years, coupled with an estimated 7% steady rate of citations, a total of approximately \$168,102 will be collected over the next six fiscal year.

Staff Impact Implementing the bill will require the creation of a new Anti-Rent Gouging Office as the existing personnel complement of the Department would not be able to absorb the workload. The Anti-Rent Gouging Protections Office will need at least eight new full-time employees among various job classifications for which the estimated annualized personnel costs total \$896,045.

Actuarial Analysis The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact While the bill will require DHCA to establish a robust database and online platform and tracking system, it is not expected to impact the County's Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected The bill does not authorize future spending.

Contributors Scott Bruton, Mary Gentry, Nicolle Katrivanos, and Pofen Salem, Department of Housing and Community Affairs
Anita Aryeetey, Office of Management and Budget





Committee: Joint
Committee Review: Completed
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #TransientLodgingFacilities #DHHS #DHCA
#ShortTermResidentialRental

AGENDA ITEM #10A
November 7, 2023
Action

SUBJECT

Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental Lead

Sponsor: Council President Glass at the request of the County Executive

INVITED ATTENDEES

- Jason Sartori, Chief – Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III – Countywide Planning & Policy, Planning Department
- Kenneth Welch, Environmental Health Manager – Licensure and Regulatory Services, Health and Human Services (DHHS)
- Scott Bruton, Director, Department of Housing and Community Affairs (DHCA)
- Pofen Salem, Division Chief – Finance, DHCA
- Nathan Bovelie, Division Chief – Community Development, DHCA
- Tamala Robinson, Manager – Code Enforcement, DHCA
- Tiffany Johnson, Manager – Licensing, DHCA
- Commander David McBain, Patrol Services Bureau – 3rd District Station, Montgomery County Department of Police (MCPD)
- Ehsan Motazedi, Deputy Director, Department of Permitting Services (DPS)
- Victor Salazar, Division Chief – Zoning and Code Compliance, DPS

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The Health and Human Services (HHS), Planning, Housing, and Parks (PHP), and Economic Development (ECON) Committees unanimously recommend enactment of Bill 22-23 as amended.
- Roll call vote expected on the enactment of the Bill with amendments, as recommended by the Committee.

DESCRIPTION/ISSUE

Bill 22-23 will amend the provisions for Short-Term Residential Rentals. Specifically, Bill 22-23 will reassign enforcement responsibility to DHCA; increase the maximum penalty; amending the application process; and clarify the processes for challenges, suspensions, revocations, and appeals.

SUMMARY OF KEY DISCUSSION POINTS

- In Bill 22-23, the County Executive proposed substantial revisions to the Short-Term Residential Rental and Bed and Breakfast provisions of Chapter 24, that were intended to address difficulties in enforcement.

- A joint Committee worksession of the HHS, PHP, and ECON Committees was held on October 12, 2023. The Committee unanimously recommended approval of Bill 22-23 with amendments. The Committee agreed to move licensing and enforcement from DHHS to DHCA, and to provide the Director with more flexibility in both approving, renewing, suspending, and revoking licenses.

This report contains:

Staff Report	Pages 1-9
Bill 22-23	© 1
County Executive Transmittal Memorandum	© 15
County Executive Written Testimony	© 17
Legislative Request Report	© 19
Racial Equity Impact Statement for Bill 22-23	© 20
Climate Assessment for Bill 22-23	© 25
Economic Impact Statement	© 28
Fiscal Impact Statement	© 32
Planning Board recommendation	© 35
Planning Staff report	© 37
Staff Report for October 12, 2023 Joint Committee Worksession	© 47

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

M E M O R A N D U M

November 2, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental

PURPOSE: Action – roll call vote expected

The Health and Human Services (HHS), Planning, Housing, and Parks (PHP), and Economic Development (ECON) Committees unanimously recommend:

Approval of Bill 22-23 with amendments.

COMMITTEE ATTENDEES

- Jason Sartori, Chief – Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III – Countywide Planning & Policy, Planning Department
- Kenneth Welch, Environmental Health Manager – Licensure and Regulatory Services, Health and Human Services (DHHS)
- Scott Bruton, Director, Department of Housing and Community Affairs (DHCA)
- Pofen Salem, Division Chief – Finance, DHCA
- Nathan Bovellet, Division Chief – Community Development, DHCA
- Tamala Robinson, Manager – Code Enforcement, DHCA
- Tiffany Johnson, Manager – Licensing, DHCA
- Commander David McBain, Patrol Services Bureau – 3rd District Station, Montgomery County Department of Police (MCPD)
- Ehsan Motazedi, Deputy Director, Department of Permitting Services (DPS)
- Victor Salazar, Division Chief – Zoning and Code Compliance, DPS

INTRODUCTION

Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental, lead sponsor Council President Glass at the Request of the County Executive, was introduced on April 18, 2023. Bill 22-23 would reassign enforcement responsibility to DHCA; increase the maximum penalty; adjust

the application process; and clarify the processes for challenges, suspensions, revocations, and appeals.¹

PUBLIC HEARING

A public hearing was held on June 13, 2023. Several speakers testified, both in opposition and support. Written testimony reflected the testimony provided during the public hearing.²

Those in support testified that home rentals are not like hotels, so enforcement should be moved to DHCA. Testimony reflected that while many operate short-term residential rentals without problems, there have also been negative community impacts from some operators due to parking issues, increased traffic, and loud parties. Testimony expressed concern that short-term residential rentals drive out affordable housing, that poorly operated short-term residential rentals are disruptive to the community, and that the County has had issues with enforcement. Those in support noted that the bill would provide the County with increased enforcement abilities and provide neighbors with more meaningful opportunities to object to proposed short-term residential rentals.

In opposition to the bill, many testified that they benefit from operating short-term residential rentals because it provides additional income that allows residents to stay in the County, improve their homes, and age in place. In addition, testimony explained that short-term residential rentals benefit many visitors to the County, including traveling nurses and those who need to stay in the County for longer than a few days. Airbnb testified that a large portion of hosts are women or senior citizens. Those opposed testified that the bill would unnecessarily limit tenant rights. Some testified that jurisdiction should stay with HHS because of health and safety concerns, such as those who rent their homes and have swimming pools. Testimony also asked to allow accessory dwelling units (ADUs) to operate short-term residential rentals.

SUMMARY OF IMPACT STATEMENTS

Racial Equity Impact Statement

The Office of Legislative Oversight (OLO) found that the racial equity and social justice (RESJ) impact of Bill 22-23 is indeterminant. The impact statement notes the sharing economy industry has been characterized by racial inequities and disparities, because while the platforms provide increased access to goods and services, research suggests the benefits are not equally distributed amongst guests or hosts. OLO examined each stakeholder group and found that:

¹ Introduced at the same time was Zoning Text Amendment (ZTA) 23-04, Residential Uses – Short-Term Residential Rental, lead sponsor Council President Glass at the Request of the County Executive. ZTA 23-04 would limit the number of overnight guests regardless of age and remove language for owner-authorized agents. The joint Committee did not recommend approval of ZTA 23-04. Therefore, it is not before the Council for action.

² Written testimony can be found here:

<https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20230613/index.html>

- homeowners could face increased costs from stronger enforcement, and that while the majority of homeowners in the County are white or Asian, BIPOC homeowners are cost-burdened at higher levels;
- constituents using bed and breakfasts and short-term residential rentals could benefit from stronger enforcement of health and safety protocols but could as a result face higher prices; and
- constituents living near bed and breakfasts and short-term residential rentals could benefit from stronger enforcement mitigating inconveniences, but it is unclear whether certain communities could be subject to more enforcement than others and whether racial and ethnic disparities in enforcement could emerge by community demographics.

Climate Assessment

OLO anticipates Bill 22-23 will have no impact on the County’s contribution to addressing climate change as the Bill is proposing changes to existing laws governing bed and breakfast and short-term residential rentals to ensure County law enforcement of these rentals.

Economic Impact Statement

OLO found that enacting Bill 22-23 would have a neutral impact on economic conditions in the County in terms of the Council’s priority indicators. OLO predicted the bill would increase operating costs and decrease revenues for homeowners who operate bed and breakfasts and short-term residential rentals; and that the bill would increase rents for resident customers but that this negative impact would be mitigated by homeowners passing a portion of the higher costs to non-resident customers. OLO also noted that enhanced enforcement could prevent certain homeowners’ associations from banning short-term residential rentals which would decrease the market.

Fiscal Impact Statement

The Office of Management and Budget (OMB) found that under Bill 22-23 revenues are projected to increase by \$48,800 in FY24, with annualized revenues of at least \$218,000 beginning in FY25 and each year thereafter. OMB noted that this is a net change in expenditures and revenues, meaning the figures are offset by expenditure reductions DHHS is expected to see. The revenue figures assume no revenue from citation fines will be collected in FY24 as the program is initiated and new staff are hired. OMB expects increased enforcement to result in license applications increasing to 1,300 to align with the number of short-term residential rental properties that are estimated to be currently operating in the County. Under the strengthened enforcement provisions, DHCA expects to issue approximately 50 citations in the first full year and for citations to increase by one each year thereafter, generating \$1,000 in revenue per citation.

Expenditures are estimated to increase by \$270,100 in FY24, increasing to \$542,700 beginning in FY25 and each year thereafter. Expenditures are expected to increase to support additional staff, vehicle purchases, and other miscellaneous operating costs. DHCA expects to need two licensing staff, two inspectors, and one IT specialist which would create \$536,100 in new personnel costs annually. Operating expenditures are comprised of the miscellaneous operating supplies needed for the new positions (\$20,600 one-time and \$2,600 ongoing costs) and two vehicles to facilitate

the Housing Code Inspectors' property inspections and enforcement work (\$113,800 one-time vehicle purchase and \$2,000 ongoing operation and maintenance costs).

Planning Board Recommendation

The Planning Board met on June 1, 2023, and unanimously recommended modifications to Bill 2-23. The Board supported most of the technical changes made in Bill 22-23, including reassignment to DHCA; amendment of the application requirements; and clarification of the processes for challenges, suspension, revocation, and appeals. However, the Board had major concerns about many of the policy changes such as increased penalties, removing owner-authorized residents, and limiting the number of guests without exceptions for children. The Board noted that it was unclear whether these changes would result in meaningful improvement in enforcement, or whether they would instead reduce flexibility for both hosts and guests.³

BACKGROUND

History of Short-Term Residential Rentals

Before the passage of a bill and ZTA allowing short-term residential rentals in 2017, residential occupancy of a dwelling was only allowed on a monthly or longer basis. After introduction and public hearing, the Council asked the Planning Department to conduct additional public outreach. Three public meetings were held, in addition to meeting with the relevant agencies. At the time, public testimony ranged from support because of the additional income that could be generated; hesitancy from the hotel industry due to the competition caused; concern about the reduction of affordable housing; and opposition due to potential increases in noise, traffic, and crime. Many issues were addressed, including parking, the number of guests allowed, the number of rentals allowed in a year, and other licensing requirements. These discussions generated a new ZTA and bill, that were passed by the Council in October 2017 with effective dates of July 1, 2018.⁴

Intent of Bill 22-23

According to the County Executive, while most short-term residential rentals operate within the County's regulatory framework, others "cause serious problems for neighboring properties and, in at least one case, potential threats to public safety." This is confirmed in the Economic Impact Statement, which states that DHHS and DPS reported that only a small number of short-term residential rentals receive complaints. To address the complaints, Bill 22-23 includes recommended changes from the County Attorney's Office, DHHS, and DHCA to address the perceived shortcomings in County Law, particularly in enforcement. Of note, while much of the

³ For these reasons, the Board unanimously did not support ZTA 23-04.

⁴ On October 10, 2017, the Council passed Bill 2-16 (10/10/2017 Council Session, Item #6A) and, sitting as the District Council, passed ZTA 17-03 (10/10/2017 District Council Session, Item #4E).

Municipalities may opt out of Chapter 54. Chapter 54 does not apply to: Chevy Chase Village, Chevy Chase, Chevy Chase, Gaithersburg, Garrett Park, Kensington, Laytonsville, Poolesville, Rockville, Somerset, and Washington Grove.

testimony centers around short-term residential rentals such as Airbnb or Vrbo, this section of the County Code also applies to bed and breakfasts.

MCPD reports that they do not have any datasets that separate out the complaints for short-term residential rentals, so cannot provide information on the number of complaints received related to short-term residential rentals. DPS reports that while they investigate complaints associated with illegal residential uses, any complaints regarding short-term residential rentals, including licensing issues, are sent to HHS. According to HHS, around the time of the worksession there were approximately 1,450 advertised short-term residential rentals. However, only 178 had active licenses. There were 3 bed and breakfasts currently licensed. Complaints and inquiries are primarily through MC311. The County Executive's Office testified that the County receives 2-3 complaints per week, generally for unlicensed or reoccurring problem properties.

Provisions of Bill 22-23 (as introduced)

Some of the bracketed and underlined language in Bill 22-23 represents language that is being moved, not necessarily changes in the law. Bill 22-23 also proposes several changes to the current law. These include:

- Moving licensing and enforcement from DHHS to DHCA.
- Making the maximum penalty \$1,000 with each day of the violation being a separate offense.
- Requiring the guest registry to include a name, address, date and time of rental, license plate number, and that the record be kept for at least 3 years.
- Only allowing a property owner to be an applicant.
- Changing the maximum number of overnight guests to include those under the age of 18.
- Requiring the designated representative to be identified by name, address, and phone number; and be available to the Department when the primary resident is not present.
- Increasing the Director's authority to approve, deny, renew, or reinstate a license.
- Increasing the period during which an application for a license will not be approved if the applicant has been found guilty of violating Chapter 54 from 12 months to 36 months.
- Increasing the Director's authority to suspend or revoke a license.
- Requiring written notice be provided to the relevant parties when a license is issued or renewed, including the procedures for filing an appeal.
- Allowing a challenge to be filed by the same parties entitled to notice.
- Removing the requirement that BOA must hold a hearing within 60 days and act within 30 days of the hearing.

COMMITTEE RECOMMENDATION

The Health and Human Services (HHS), Planning, Housing, and Parks (PHP), and Economic Development (ECON) Committees held a joint worksession on both Bill 22-23 and ZTA 23-04 on October 12, 2023. Participating in the discussion were representatives from the County Executive's Office, MCPD, HHS, DHCA, DPS, and the Planning Department. The staff report for that worksession is included in this packet.

Before going into the specifics of Bill 22-23 and ZTA 23-04, the Committee discussed the shortcomings in current enforcement efforts. Some of the issues discussed included: the inability to revoke licenses because it was difficult to get 3 verified complaints within 12 months through the Court system; union issues with having staff available from 9pm-midnight, the most common time for complaints; insufficient funding for enforcement; whether an Enterprise fund should be created to cover the cost of enforcement; and the need for public outreach so that those operating are aware a license is required.

The Committee noted that before changes were made to the application and license requirements, the County needed to get better at enforcing the existing law. The overall recommendation was to limit the bill to a change in jurisdiction and increase the Director's ability to do enforcement. This left the following portions of Bill 22-23:

- Change licensing and enforcement from DHHS to DHCA.
- Increase the Director's authority to approve, deny, renew, or reinstate a license.
- Increase the period of violation from 12 months to 36 months.
- Allow the Director to suspend or revoke a license.
- Remove the requirement that BOA must hold a hearing within 60 days and act within 30 days of the hearing.

The Committee also agreed with the proposed change to allow the Director to suspend or revoke a license for reasons other than 3 violations within a year, but with amendment:

- Violation of Chapter 54 or any other applicable law or regulation.
- Conviction of violating any provisions of Criminal Law Article of Maryland Code while operating a short-term residential rental or bed and breakfast.
- A pattern of operating in a manner dangerous to the health and safety of the community or operating in a manner that is a nuisance because of noise or other activity.

The Committee did not recommend approval of the remaining portions of Bill 22-23 and did not recommend approval of ZTA 23-04.

DISCUSSION OF COMMITTEE-RECOMMENDED BILL 22-23

Jurisdiction

Bill 22-23 would move short-term residential rental and bed and breakfast licensing and enforcement from DHHS to DHCA. While DHHS is in the business of licensing and inspection for commercial entities like hotels, DHCA has the expertise for long-term rentals and ADUs. The Committee agreed that DHCA was the appropriate agency for licensing and enforcement.

Council Staff recommends an additional amendment that was not before the Committee. After the worksession, DHCA noted that given the additional staffing needed for this transition, an effective date after budget would be beneficial. According to the Fiscal Impact Statement,

DHCA estimates that it will need two licensing staff, two inspectors, and one IT specialist were the bill to be enacted. Council Staff therefore recommends an effective date of July 1, 2024.

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

License Approval and Renewal

Bill 22-23 will increase the Director's authority to approve, deny, renew, or reinstate a license in the following ways:

- Rather than being required to accept the self-certification of the applicant after verifying compliance by reviewing available records, the Department will be able to inspect the property;⁵
- Increasing the time to approve or deny a license from 15 working days of receipt of completed application to 30-60 days (this increase allows adequate time for neighbors to challenge the application); and
- May require licensee to appear before the Director and show cause why license should not be suspended or revoked.

The Committee agreed with this portion of Bill 22-23.

Under current law, an application for a license will not be approved if the applicant has been found guilty of violating Chapter 54 in the last 12 months. Bill 22-23 would increase this to 36 months. The Committee recommended an amendment that this would not include a person whose only violation was operating without a license, since the goal is to bring all of those who are operating illegally into compliance. The amendment reads:

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

Revocation or suspension of license

Bill 22-23 would have allowed the Director to suspend or revoke a license for the following reasons:

- Violation of Chapter 54 or any other applicable law or regulation;
- Operating in a manner disruptive to the general peaceful enjoyment of the community;
- Operating in a manner dangerous to the health and safety of the community;
- Operating in a manner that is a nuisance because of noise or other activity; or

⁵ Council Staff noted that to avoid equity issues and to provide applicants with proper notice, the Department should provide guidance, such as on its website or on application forms, as to what the requirements for inspection will be. This could include when an inspection will be called for and what conditions the property must meet. The Committee agreed, and the DHCA Director stated that this could be done.

- Having been convicted of violating any provisions of Criminal Law Article of Maryland Code while operating a short-term residential rental or bed and breakfast.

The Committee agreed that the Director should have additional flexibility in suspending or revoking a license but disagreed with the subjective nature of some of these provisions. Therefore, the Committee recommended the following amendment:

The Director may suspend or revoke any license issued under this Article if the Director finds that the licensee:

- (1) has violated this Chapter or any other applicable law or regulation;
- (2) has been convicted of violating any of the provisions of the Criminal Law Article of the Maryland Code listed in in Section 54-20 while operating the bed and breakfast or short-term residential rental; or
- (3) has repeatedly operated in a manner that is dangerous to the health and safety of the community or is a nuisance because of noise or other activity.

Challenges

Anyone aggrieved by license approval, denial, or revocation may appeal to the Board of Appeals (BOA).⁶ The BOA must hold a hearing on the appeal within 60 days of notice of the appeal being filed and must act on that appeal within 30 days of the hearing.⁷ The 30- to 60-day timeline is a quick turnaround for the BOA and effects its ability to schedule other equally important matters. Bill 22-23 removes the requirement that BOA must hold a hearing within 60 days and act within 30 days of the hearing.⁸ The Committee agreed with this change.

This packet contains:

Bill 22-23	© 1
County Executive Transmittal Memorandum	© 15
County Executive Written Testimony	© 17

⁶ As an aside, there is a difference between those who can file a challenge with the Director (the list of parties entitled to notice) and those who can file an appeal (any person aggrieved).

⁷ Other administrative appeals allow time for summary disposition (at least 30 days before date of the hearing), prehearing conferences (3-4 weeks before the hearing), and a longer timeframe to issue decisions (45 days).

⁸ Council Staff has not found any language that clearly stays an application during the appeals process. This means an applicant could choose to keep operating in a situation where they were granted a license and their neighbor appeals the issuance of that license. However, this is the case with many appeals, such as an appeal of a building permit.

Legislative Request Report	© 19
Racial Equity Impact Statement for Bill 22-23	© 20
Climate Assessment for Bill 22-23	© 25
Economic Impact Statement	© 28
Fiscal Impact Statement	© 32
Planning Board recommendation	© 35
Planning Staff report	© 37
Staff Report for October 12, 2023 Joint Committee Worksession	© 47

Bill No. 22-23
Concerning: Transient Lodging Facilities
- Short-Term Residential Rental
Revised: 11/1/2023 Draft No. 2
Introduced: April 18, 2023
Expires: December 7, 2026
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: [date expires]
Ch. [#], Laws of Mont. Co. [year]

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

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:

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.**

111 * * *

112 **54-43. [Certification] Application for a License.**

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

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

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

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

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

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

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

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

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

135 [[c) the building in which the bed and breakfast or short-term residential rental

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

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

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

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

210 [(m) the applicant posted rules and regulations inside the dwelling unit,

211 including the name, address, and phone number for the representative

212 designated for emergency purposes;]]

213 [(n) the application is not prohibited by any homeowner's association or

214 condominium document, or a rental lease;]

215 (n) the application is not prohibited by any homeowner's association or

216 condominium document, or a rental lease;

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

244 more than 120 days in a calendar year when the property owner is not
245 physically present in the dwelling unit.]]

246 **54-44. Applications.**

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

250 **54-45. License Approval and Renewal.**

251 The Director [must]:

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

256 (b) may inspect the property;

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

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

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

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

269 (2) provide written notice to the parties listed in section [[54-43(n)]]
270 54-43(m) of the issuance of the license and the procedure to file an

271 appeal with the Board of Appeals.

272 **54-46. Challenge to [Certifications] Applications.**

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

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

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

291 (b) The Director must, within 60 days after receipt of the challenge:

- 292 (1) provide notice of the challenge to the applicant;
293 (2) provide an opportunity for the applicant to respond to the
294 challenge;
295 (3) investigate [the] any question of fact raised by the challenge; [and]
296 (4) [revoke] approve or deny the license or license renewal after
297 reviewing the application, including supporting documents

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

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

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

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

311 **54-47. Suspension and Revocation.**

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

316 (1) has violated this Chapter or any other applicable law or regulation;

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

322 [[3)](2) has been convicted of violating any of the provisions of the
323 Criminal Law Article of the Maryland Code listed in in Section 54-
324 20 while operating the bed and breakfast or short-term residential

325 rental[[:]]; or
326 (3) has repeatedly operated in a manner that is dangerous to the health
327 and safety of the community or is a nuisance because of noise or
328 other activity.

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

333 **54-48. Appeals.**


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

341
342

MEMORANDUM

March 17, 2023

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Bill XX-23, Transient Housing – Short-Term Rental License and ZTA 23-XX, Amendments to the Montgomery County Zoning Ordinance, Chapter 59

I am transmitting the attached proposed Bill XX-23, Transient Housing – Short-Term Rental License and ZTA 23-XX, Amendments to the Montgomery County, Zoning Ordinance, Chapter 59 of the Montgomery County Code for the County Council's introduction.

Although most short-term rentals operate within the County's regulatory framework, there are some that do not, causing serious problems for neighboring properties and, in at least one case, potential threats to public safety. These cases have highlighted shortcomings in County Law, particularly in enforcement. At my request, the Office of the County Attorney, the Department of Health and Human Services, and the Department of Housing and Community Affairs reviewed these shortcomings and recommended changes to the law. This Bill sets forth their recommendations, as follows:

1. Assign enforcement responsibility of bed and breakfast and short-term residential rental licensing to the Department of Housing and Community Affairs.
2. Increase the maximum penalty for violations.
3. Amend the application process for bed and breakfast and short-term residential rental licensing, including a requirement that the applicant is the primary resident.
4. Specify a limit on guests and require smoke and carbon monoxide detectors.
5. Clarify of the process for challenging an application for bed and breakfast and short-term residential rental license.
6. Clarify of the process for suspending or revoking a bed and breakfast or short-term residential rental license.

Bill XX-23, Transient Housing – Short-Term Rental License and ZTA 23-XX, Amendments to
the Montgomery County Zoning Ordinance, Chapter 59

March 17, 2023

Page 2 of 2

Please let me know if you need additional information in support of this Bill. Thank you.

Enclosure

Testimony on behalf of County Executive Marc Elrich on Bill 22-23 Transient Housing - Short Term Rental License, and ZTA 23-04, Residential Uses – Short Term Residential Rental

Thank you for the opportunity to testify on behalf of County Executive Elrich regarding Bill 22-23, Transient Housing - Short Term Rental License and ZTA 23-04, Residential Uses – Short Term Residential Rental. The County Executive thanks the Council President for introducing this legislation.

There are 158 short-term residential rentals licensed, but we believe there are more than 1200 in Montgomery County. Most short-term rentals operate without issues, there are some that do not, creating serious community impacts and, in at least one case, potential threats to public safety. These cases have made us aware of shortcomings in County Law and prompted us to rethink licensing requirements and compliance.

The legislation assigns the administration of short-term residential rental licensing to the Department of Housing and Community Affairs. While the Department of Health and Human Services does tremendous work with limited resources, home rentals in residential areas are not the same as hotels, they are more akin to rental housing already managed by DHCA. This move will allow us to utilize the expertise of the code enforcement and rental housing teams in inspections and compliance.

Currently, the County relies on self-attestation to determine compliance and compliance is entirely complaint driven. Penalties - when levied – can be less than the cost of a single rental. The County receives 2-3 complaints per week, generally for unlicensed or re-occurring problem properties. The complaints fall into several categories:

Special events

Only registered guests are allowed at a rental, but we see issues with special occasions when other family members visit those staying at a home. We have also seen promoted, ticketed events and parties with acute community impacts.

Increasing the maximum penalty for violations and establishing a process for suspending or revoking a license will allow us to address issues more swiftly.

Overcrowding

The total number of overnight guests who are 18 years or older is limited to 6, and the total number of overnight guests over 18 years of age per bedroom is limited to 2. Some larger homes can accommodate more guests, but this is not always the case, especially when multiple families stay together. We see examples of overcrowding with guests sleeping in areas of the home that lack adequate egress or life-safety equipment.

The legislation allows no more than 6 guests, and no more than 2 per bedroom. The bill also requires smoke and carbon monoxide detectors.

Primary residence requirements

A dwelling unit where the short-term residential rental is located must be the primary residence of the applicant. It is extremely difficult and time consuming to determine if this is the case.

The legislation requires the applicant is the owner of the property and the property is that person's primary residence as listed by the State Department of Assessments and Taxation.

Lack of notification to neighbors

Neighbors often find out that a short-term residential rental is licensed in their neighborhood after the 30-day challenge period has passed.

The legislation requires written notice to neighbors and clarifies the process for challenging an application.

Maximum allowable rentals in a calendar year

The maximum of 120 days in a calendar year is not enforceable. The County relies on the neighbors to count the days which pits neighbors versus neighbors.

The legislation requires a point of contact and a registry of guests to be kept and made available to inspectors.

Drafting this legislation included our talented staff in the Department of Health and Human Services, the Department of Housing and Community Affairs, and the Office of the County Attorney. We look forward to engaging with the PHP committee on Bill 22-23 and ZTA 23-04 to address the shortcomings that we have seen in the existing structure as I highlighted, and the solutions proposed in this legislation.

LEGISLATIVE REQUEST REPORT

BILL: XX-23, Transient Housing - Short-Term License

- DESCRIPTION:** Bill XX-23 assign enforcement responsibility of bed and breakfast and short term residential rental licensing to the Department of Housing and Community Affairs; increase the maximum penalty for violations; amend the application process for bed and breakfast and short-term residential rental licensing, including a requirement that the applicant is the primary resident; specify a limit on guests and require smoke and carbon monoxide detectors; clarify of the process for challenging an application for bed and breakfast and short-term residential rental license; clarify of the process for suspending or revoking a bed and breakfast or short-term residential rental license.
- PROBLEM:** All short-term rentals do not operate within the County’s regulatory framework, which causes problems for neighboring properties. This highlights shortcomings in County law, particularly in enforcement.
- GOALS AND OBJECTIVES:** To ensure County law enforcement on all short-term rentals
- COORDINATION:** The Office of the County Executive and Office of the County Attorney
- FISCAL IMPACT:** Office of Management and Budget
- ECONOMIC IMPACT:** Office of Legislative Oversight
- EVALUATION:** To be researched
- EXPERIENCE ELSEWHERE:** To be researched
- SOURCE OF INFORMATION:** Office of the County Attorney, Edward Lattner, 240-777-6735
Office of the County Executive, Ken Hartman, 240-777-8206
- APPLICATION WITHIN MUNICIPALITIES:** To be researched
- PENALTIES:** A violation of any provision of Article II or Article III of this Chapter is a class A violation. However, notwithstanding Section 1-19, the Maximum penalty for a civil violation of Article III is \$1,000 for an initial

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 22-23: TRANSIENT LODGING FACILITIES – SHORT-TERM RESIDENTIAL RENTAL

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice impact (RESJ) of Bill 22-23 is indeterminant, due to insufficient information on stakeholders connected to bed and breakfasts and short-term residential rentals, and whether racial and ethnic disparities could emerge from stronger enforcement of laws governing such short-term rental arrangements.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 22-23

By County law, a ‘bed and breakfast’ is defined as a detached house that is owner-occupied with no more than five guest rooms for rent and customarily serves breakfast to guests, while a ‘short-term residential rental’ is defined as the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days.³ Rental arrangements such as these have increased with the growing popularity of online platforms such as Airbnb and Vrbo.

The purpose of Bill 22-23 is to update the law governing bed and breakfasts and short-term residential rentals in the County. The proposed changes incorporate recommendations made by the Office of the County Attorney (OCA), the Department of Health and Human Services (DHHS), and the Department of Housing and Community Affairs (DHCA) to address enforcement difficulties since the law was adopted in 2017. If enacted, Bill 22-23 would:⁴

- Assign enforcement responsibility for bed and breakfasts and short-term residential rentals to DHCA;
- Increase the maximum penalty for a violation of bed and breakfast and short-term residential rental laws;
- Clarify and update certain provisions regarding the application for a bed and breakfast or short-term residential rental license; and
- Clarify various processes for bed and breakfast and short-term residential rental licenses, including processes for challenging an application for a license, suspending or revoking a license, and appealing the decision on a license to the Board of Appeals.

Bill 22-23 was introduced along with Zoning Text Amendment (ZTA) 23-04, which amends certain requirements related to the number of rental days and property ownership.⁵ Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental, was introduced by the Council President on behalf of the County Executive on April 18, 2023.

RESJ Impact Statement

Bill 22-23

In March 2023, OLO published a RESJIS for Bill 6-23, Housing – Sharing Economy Rental. OLO builds on Bill 6-23’s analysis for this RESJIS.

THE SHARING ECONOMY AND RACIAL EQUITY

Deeply embedded structural racism in American society inherently drives racial bias within and across societal institutions. Thus, while the Sharing Economy (SE) is a relatively new concept, it has also been characterized by racial inequities and disparities. SE platforms have increased access to an array of useful goods and services. However, research suggests that benefits of the SE are not equitably distributed. Researchers at Boston College note national studies from the JPMorgan Chase & Co. Institute and the Pew Research Center finding that SE platform users tend to be “whiter, younger, better-educated, and have higher income than the general population.”⁶ Additionally:

- A field experiment of Airbnb by researchers found “that applications from guests with distinctively African American names [were] 16 percent less likely to be accepted relative to identical guests with distinctively white names.”⁷ A recent internal study by Airbnb confirmed racial discrimination, finding that guests who were perceived as Black were able to book their desired rental 91.4 percent of the time, compared to 94.1 percent for guests who are perceived as White.⁸
- A study of 335,000 Airbnb listings in the ten largest Airbnb markets in the U.S. found that areas with higher concentrations of non-White residents “[charged] lower nightly prices, [had] lower annual revenues, and [received] lower ratings from guests.”⁹ Further, a study of over 100,000 Airbnb listings across 14 countries, including the U.S., found evidence that “consumers show a preference for White hosts, which allows White hosts to charge higher prices.”¹⁰
- A study of nearly 1,000 Uber and Lyft rides in Boston found that “Uber drivers were twice as likely to cancel an accepted ride when travelers [had an] African American sounding name.”¹¹
- A study of 100 million ride-sharing samples from Chicago found that “[n]eighborhoods with larger non-white populations, higher poverty levels, younger residents, and high education levels [were] significantly associated with higher fare prices.”¹²

Concerns have also been raised around the role of SE platforms in perpetuating broader employment and housing inequities. Advocacy groups have argued that, through misclassifying drivers as independent contractors and denying employee benefits and protections, Uber and Lyft uniquely harm workers of color, who are overrepresented in their driver workforce.¹³ A study of Airbnb listings throughout the U.S. found that Airbnb leads to higher rents and decreases the supply of long-term rental units.¹⁴ This effect would disproportionately harm BIPOC renters as they are cost burdened at higher levels than White renters.¹⁵

ANTICIPATED RESJ IMPACTS

If Bill 22-23 works as intended, there will be stronger enforcement of laws governing bed and breakfasts and short-term residential rentals – short-term rental arrangements that are typically facilitated by platforms such as Airbnb and Vrbo. To consider the anticipated impact of Bill 22-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?

RESJ Impact Statement

Bill 22-23

- What racial and social inequities could passage of this bill weaken or strengthen?

To answer these questions, OLO considered the various stakeholders that would be impacted by stronger enforcement of bed and breakfasts and short-term residential rentals and RESJ concerns for each group:

- **Homeowners who operate bed and breakfasts or short-term residential rentals** could face increased costs from stronger enforcement, including from expenses necessary to comply with the law or fines from violations of the law. They could also face an increased risk of losing their operating license under certain conditions, including from violations of the law. There is no definitive data on short-term rental operators in the County by race and ethnicity. While homeowners in the County are more likely to be White or Asian (Table 1, Appendix), it is unclear whether short-term rentals could be a more attractive income-generating opportunity for BIPOC homeowners, considering they are cost burdened at higher levels than White homeowners (Table 2, Appendix). Further, it is unclear whether certain homeowners could be subject to more enforcement than others, and whether racial and ethnic disparities in enforcement could emerge.
- **Constituents using bed and breakfasts or short-term residential rentals** could benefit from stronger enforcement of health and safety protocols, though they may face higher prices. Based on research from SE platforms noted in the previous section, short-term rental users may be disproportionately White and BIPOC users may experience discrimination. However, there is no definitive data on short-term rental users in the County by race and ethnicity.
- **Constituents living near bed and breakfasts or short-term residential rentals** could benefit from stronger enforcement mitigating inconveniences in their neighborhoods related to short-term rentals. It is unclear whether certain communities could be subject to more enforcement than others, and whether racial and ethnic disparities in enforcement could emerge by community demographics.

Taken together, OLO finds the RESJ impact of Bill 22-23 is indeterminant.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁶ OLO finds the RESJ impact of Bill 22-23 is indeterminant. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, the following policy option can be considered:

- **Collecting RESJ and enforcement data for bed and breakfasts and short-term residential rentals.** Requiring applicants to report their race and ethnicity when applying for a bed and breakfast or short-term residential rental license could provide a better understanding of the demographics of short-term rental operators in the County. Collecting demographic data along with data on enforcement actions, such as the imposition of fines or license revocations, would allow for analysis that could determine whether racial and ethnic disparities emerge from stronger enforcement of the law.

RESJ Impact Statement

Bill 22-23

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Table 1: Homeownership Rate by Race and Ethnicity, Montgomery County¹⁷

Race and Ethnicity	Homeownership Rate
Asian	69.1
Black	43.3
White	77.1
Latinx	54.3

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

Table 2: Cost Burden Rate of Homeowners by Race and Ethnicity, Montgomery County

Race and Ethnicity	Homeowner Cost Burden Rate
Asian	30.1
Black	28.1
White	22.1
Latinx	31.8

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ Montgomery County, Maryland, County Code § 54-1

⁴ Introduction Staff Report for Bill 22-23, Montgomery County Council, Introduced April 18, 2023. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230418/20230418_3-4A.pdf

⁵ Ibid

⁶ Mehmet Cansoy and Juliet B. Schor, “Who Gets to Share in the ‘Sharing Economy’? Racial Inequities on Airbnb.” Boston College Sociology Department, 2016.

<https://www.bc.edu/content/dam/bc1/schools/mcas/sociology/pdf/Who%20gets%20to%20share%20in%20the%20sharing%20economy.pdf>

RESJ Impact Statement

Bill 22-23

⁷ Benjamin Edelman, et al, “Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment,” American Economic Journal: Applied Economics. April 2017. <https://www.aeaweb.org/articles?id=10.1257/app.20160213>

⁸ Sara Clemence, “Black Travelers Say Home-Share Hosts Discriminate, and a New Airbnb Report Agrees,” The New York Times, December 13, 2022. <https://www.nytimes.com/2022/12/13/travel/vacation-rentals-racism.html>

⁹ Cansoy and Schor

¹⁰ Bastian Jaeger and Willem W. A. Sleegers, “Racial Disparities in the Sharing Economy: Evidence from More than 100,000 Airbnb Hosts across 14 Countries,” Journal of The Association of Consumer Research, January 18, 2023.

<https://www.journals.uchicago.edu/doi/abs/10.1086/722700?journalCode=jacr>

¹¹ Yanbo Ge, et al, “Racial Discrimination in Transportation Network Companies,” Journal of Public Economics, October 2020.

<https://www.sciencedirect.com/science/article/pii/S0047272720300694>

¹² Akshat Pandey and Aylin Caliskan, “Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy’s Price Discrimination Algorithms,” AAAI/ACM Conference on Artificial Intelligence, Ethics, and Society, May 2021. <https://arxiv.org/abs/2006.04599>

¹³ Edward Ongweso Jr, “Civil Rights Groups Say Uber Actively Hurts Black People,” Vice News, September 23, 2020.

<https://www.vice.com/en/article/7kpn9z/civil-rights-groups-say-uber-actively-hurts-black-people>

¹⁴ Kyle Barron, et al, “The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb,” SSRN, March 4, 2020.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3006832

¹⁵ RESJ Impact Statement for Expedited Bill 22-22, Office of Legislative Oversight, Montgomery County, Maryland, July 29, 2022.

<https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/BillE22-22.pdf>

¹⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

¹⁷ Latinx is an ethnicity rather than a race; therefore, Latinx people are included in multiple racial groups throughout this impact statement unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.

Climate Assessment

Office of Legislative Oversight

Bill 22-23: Transient Lodging Facilities – Short-Term Residential Rental

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 22-23 will have no impact on the County's contribution to addressing climate change as the Bill is proposing changes to laws governing bed and breakfast and short-term residential rentals in order to ensure County law enforcement on these rentals.

BACKGROUND AND PURPOSE OF BILL 22-23

By County law, a 'bed and breakfast' is defined as a detached house that is owner-occupied with no more than five guest rooms for rent and customarily serves breakfast to guests, while a 'short-term residential rental' is defined as the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days.¹ Rental arrangements such as these have increased with the growing popularity of online platforms such as Airbnb and Vrbo.

The purpose of Bill 22-23 is to update the law governing bed and breakfast and short-term residential rentals in the County. The proposed changes incorporate recommendations made by the Office of the County Attorney (OCA), the Department of Health and Human Services (DHHS), and the Department of Housing and Community Affairs (DHCA) to address enforcement difficulties since the law was adopted in 2017. If enacted, Bill 22-23 would:²

- Assign enforcement responsibility for bed and breakfast and short-term residential rentals to DHCA;
- Increase the maximum penalty for a violation of bed and breakfast and short-term residential rental laws;
- Clarify and update certain provisions regarding the application for a bed and breakfast or short-term residential rental license; and
- Clarify various processes for bed and breakfast and short-term residential rental licenses, including processes for challenging an application for a license, suspending or revoking a license, and appealing the decision on a license to the Board of Appeals.

Bill 22-23 was introduced along with Zoning Text Amendment (ZTA) 23-04, which amends certain requirements related to the number of rental days and property ownership.³ Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental, was introduced by the Council President on behalf of the County Executive on April 18, 2023.

ANTICIPATED IMPACTS

As Bill 22-23 is proposing changes to laws governing bed and breakfast and short-term residential rentals, OLO anticipates it will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁴ OLO does not offer recommendations or amendments as Bill 22-23 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ Montgomery County, Maryland, County Code § 54-1

² [Introduction Staff Report for Bill 22-23, Montgomery County Council, Introduced April 18, 2023.](#)

³ Ibid

⁴ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Economic Impact Statement

Montgomery County, Maryland

Bill 22-23 Transient Lodging Facilities – Short-Term Residential Rental

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 22-23 would have a neutral impact on economic conditions in the County in terms of the Council’s priority indicators. As discussed below the Bill likely would increase operating costs and decrease revenues for certain homeowners who operate short-term residential rentals or a bed and breakfast, and increase rents to certain residents who use these facilities. However, OLO anticipates several factors to mitigate these negative impacts. For one, the Bill would negatively impact only a small percentage of all homeowners in the sector, and its negative impact on resident customers would be small on a per customer basis. Moreover, costs to County businesses and residents would be mitigated by homeowners passing on a portion of the higher costs to non-resident customers. Finally, it is worth noting that enhanced enforcement could prevent certain Homeowner Associations from banning short-term residential rentals, which would decrease the market.

BACKGROUND AND PURPOSE OF BILL 22-23

By County law, a “bed and breakfast” is defined as a detached house that is owner-occupied with no more than five guest rooms for rent and customarily serves breakfast to guests. A “short-term residential rental” is defined as the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days.¹ Rental arrangements such as these have increased with the growing popularity of online platforms such as Airbnb and Vrbo.

The purpose of Bill 22-23 is to update the law governing bed and breakfast and short-term residential rentals in the County. The proposed changes incorporate recommendations made by the Office of the County Attorney (OCA), the Department of Health and Human Services (DHHS), and the Department of Housing and Community Affairs (DHCA) to address enforcement difficulties since the law was adopted in 2017. If enacted, Bill 22-23 would:

- Assign enforcement responsibility for bed and breakfast and short-term residential rentals to DHCA;
- Increase the maximum penalty for a violation of bed and breakfast and short-term residential rental laws;
- Clarify and update certain provisions regarding the application for a bed and breakfast or short-term residential rental license; and
- Clarify various processes for bed and breakfast and short-term residential rental licenses, including processes for challenging an application for a license, suspending or revoking a license, and appealing the decision on a license to the Board of Appeals.²

¹ Montgomery County Code, [Sec. 54-1](#).

² [Introduction Staff Report for Bill 22-23](#).

Bill 22-23 was introduced along with Zoning Text Amendment (ZTA) 23-04, which amends certain requirements related to the number of rental days and property ownership. Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental, was introduced by the Council President on behalf of the County Executive on April 18, 2023.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 22-23 on residents and private organizations in terms of the Council’s priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.³

To examine the Bill’s impacts on the Council’s priority indicators, OLO performs a qualitative assessment based on the following sources of information:

- Correspondence with County personnel from DHHS, DPS, and OCA; and
- County webpages on Short-Term Residential Rentals and Bed and Breakfasts.

VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 22-23 are the following:

- Total number of license revocations or suspensions;
- Total number of licenses issued;
- Average rents; and
- Percentage of resident customers.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Bill 22-23 would have a small negative impact on certain private organizations in the County in terms of the Council’s priority economic indicators.

The primary businesses impacted by the Bill would be homeowners who operate short-term residential rentals or bed and breakfasts. According to personnel from DHHS, there are currently 1,158 advertised short-term residential rentals, 153 of which are licensed with the County. Currently, there are three licensed bed and breakfast facilities.

By strengthening the County’s powers to revoke and suspend licenses and increasing penalties for violating laws and regulations regarding short-term residential rentals and bed and breakfasts, certain homeowners would be negatively impacted in terms of operating costs and business income. Higher penalties would increase operating expenses and

³ Montgomery County Code, [Sec. 2-81B](#).

revoked or suspended licenses would reduce business revenue for affected homeowners. Holding all else equal, affected homeowners would experience net losses in business income. However, certain homeowners likely would pass on a portion of these costs to their customers in the form of higher rents, thereby mitigating these negative impacts.

Moreover, OLO expects a small percentage of homeowners to be impacted by these policy changes. Enforcement of applicable laws and regulations is complaint-driven. According to DHHS and DPS personnel, only a minority of short-term residential rentals receive complaints to the County.

The Bill may increase operating costs for certain homeowners in two other ways. By requiring businesses to maintain a permanent register, certain businesses may experience minor operating expenses associated with updating their bookkeeping systems. In addition, DHCA may increase the share of short-term residential rentals or bed and breakfasts that are licensed with the County. Homeowners who otherwise would not attain a license in the absence of the policy change would pay an annual licensing fee of \$150. Again, certain homeowners likely would pass on a portion of increased costs to their customers in the form of higher rents.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council's other priority economic indicators.

Residents

OLO anticipates that enacting Bill 22-23 would have a small negative impact on certain residents in the County in terms of the Council's priority economic indicators. For one, all short-term residential rentals and bed and breakfasts must be the primary residence of owners. Therefore, any homeowners negatively affected by the policy changes as described above would be residents. Holding all else equal, increased operating costs or forgone revenue would reduce their household income. Second, certain homeowners likely would pass on increased costs to customers in the form of higher rents, a portion of which likely would be residents. Holding all else equal, these residents would experience a minor decrease in discretionary income.

Beyond these potential impacts, OLO does not expect the Bill to affect residents in terms of the Council's other priority economic indicators.

Net Impact

OLO anticipates that enacting Bill 22-23 would have a neutral impact on overall economic conditions in the County in terms of the Council's priority economic indicators. As described above, the Bill likely would increase operating costs and decrease revenues for certain homeowners who operate short-term residential rentals or bed and breakfast, and increase rents to certain residents who use these facilities. However, OLO anticipates several factors to mitigate these negative impacts. For one, the Bill would negatively impact only a small percentage of all homeowners in the sector, and its negative impact on resident customers would be small on a per customer basis. Moreover, costs to County businesses and residents would be mitigated by homeowners passing on a portion of the higher costs to non-resident customers. Finally, it is worth noting that enhanced enforcement could prevent certain Homeowner Associations from banning short-term residential rentals, which would decrease the market.

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Introduction Staff Report for Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental](#). Introduced on April 18, 2023.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

AUTHOR

Stephen Roblin (OLO) prepared this report.



Fiscal Impact Statement

Office of Management and Budget

Bill 22-23 Transient Lodging Facilities - Short-Term Residential Rental

Bill Summary Bill 22-23 moves the enforcement authority of bed and breakfast and short-term residential rentals from the Department of Health and Human Services (DHHS) to the Department of Housing and Community Affairs (DHCA). The Bill also amends the application process for bed and breakfast or short-term residential rental licenses; increases the penalty for violations; and strengthens language for enforcement purposes.

Fiscal Impact Summary Revenues are projected to increase by \$48,800 in FY24, with annualized revenues of at least \$218,000 beginning in FY25 and each year thereafter. Expenditures are estimated to increase by \$270,100 in FY24, increasing to \$542,700 beginning in FY25 and each year thereafter.

Fiscal Year	2024	2025	2026	2027	2028	2029	Total
Personnel Costs	\$134,000	\$536,100	\$536,100	\$536,100	\$536,100	\$536,100	\$2,814,500
Operating Expenses	\$136,100	\$6,600	\$6,600	\$6,600	\$6,600	\$6,600	\$169,100
Total Expenditures	\$270,100	\$542,700	\$542,700	\$542,700	\$542,700	\$542,700	\$2,983,600
Revenues	\$48,800	\$218,000	\$221,900	\$225,900	\$229,900	\$234,000	\$1,178,500
Total Impact	(\$221,300)	(\$324,700)	(\$320,800)	(\$316,800)	(\$312,800)	(\$308,700)	(\$1,805,100)
FTE	5.00	5.00	5.00	5.00	5.00	5.00	

This fiscal impact analysis only reflects the *net* change in expenditures and revenues that will result from enactment of this bill. Therefore expenditure increases DHCA expects to incur when implementing this bill are partially offset by expenditure reductions DHHS expects when the existing short-term residential rental licensing function is transitioned out of its purview. The bill also addresses enforcement challenges experienced since the County began licensing short-term residential rentals. With an increased citation fine and availability of adequate resources to effectively implement the bill, DHCA projects that most short-term residential rentals will comply with the County's licensing requirements. While the bill may be implemented in FY24, it will likely take several months to initialize the program and hire staff. This fiscal impact analysis assumes that employees begin working by the fourth quarter of FY24 (nine-month lapse); one-fourth of currently operating short-term residential rentals apply for a license in FY24; and no revenue from citation fines is collected in FY24. Each year thereafter, full year operations are assumed.

Revenues: Revenues reflect the sum of DHCA's projected license fee revenues and citation fine revenues, less existing revenues DHHS already incurs through the program. DHHS indicates that an average of 180 licenses are issued annually at \$150 per license, for total annual revenue of \$27,000. With the bill's strengthened enforcement provisions, DHCA expects license applications to increase to 1,300 to align with the number of short-term residential rental properties that are estimated to be currently operating in the County. Total license fee revenue for 1,300 properties would total \$195,000, for a net revenue increase of \$168,000 under the bill. After the initial 1,300 are licensed, DHCA also expects the number of applications to grow approximately 1.5% each year, in line with annual growth in applications seen in other types of licenses. The bill also increases the penalty for a citation from the current \$500 amount to a maximum of \$1,000. DHHS currently issues very few citations each year (only four have been issued in the past three years). Under the strengthened enforcement provisions, DHCA expects to issue approximately 50 citations in the first full year and for citations to increase by one each year thereafter, generating \$1,000 in revenue per citation (\$50,000 in the first full year of operations). No citation revenue is projected in FY24 during the initial months of operation under DHCA's purview.

Fiscal Impact Analysis

	Prior to Enactment	FY24*	FY25	FY26	FY27	FY28	FY29
License Fee Revenue							
Licenses Issued**	180	325	1,300	1,320	1,339	1,359	1,380
License Fee	\$150	\$150	\$150	\$150	\$150	\$150	\$150
Subtotal License Fee Revenue	\$27,000	\$48,750	\$195,000	\$197,925	\$200,894	\$203,907	\$206,966
Less Existing Revenue			-\$27,000	-\$27,000	-\$27,000	-\$27,000	-\$27,000
Net License Fee Revenue		\$48,750	\$168,000	\$170,925	\$173,894	\$176,907	\$179,966
Citation Fine Revenue							
Number of citations***	< 2 per year	0	50	51	52	53	54
Citation fine	\$500	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Fine revenue	Negligible	\$0	\$50,000	\$51,000	\$52,000	\$53,000	\$54,000
GRAND TOTAL NET REVENUES		\$48,750	\$218,000	\$221,925	\$225,894	\$229,907	\$233,966

* FY24 reflects three months of operation (April-June 2024), reflecting the time it will take DHCA to hire staff and implement the program. No citation revenue is expected in FY24.
 ** DHCA assumes license applications will increase by 1.25% each year, in line with recent experience for other license programs.
 *** DHCA assumes citation rates will increase by 4.5% each year, in line with recent experience for other license programs.

Expenditures: Expenditures increase to support additional staff; vehicle purchases; and other miscellaneous operating costs. DHCA expects to need two licensing staff, two inspectors, and one IT specialist which create \$536,100 in new personnel costs annually, as discussed further in the *Staff Impact* section of



this analysis. Operating expenditures are comprised of the miscellaneous operating supplies needed for the new positions (\$20,600 one-time and \$2,600 ongoing costs); two vehicles to facilitate the Housing Code Inspectors' property inspections and enforcement work (\$113,800 one-time vehicle purchase and \$2,000 ongoing operation and maintenance costs).

	FY24*	FY25	FY26	FY27	FY28	FY29
Personnel Costs						
<u>Licensing and Regulation</u>						
FTE	2.0	2.0	2.0	2.0	2.0	2.0
Program Specialist II (G21)	\$25,031	\$100,126	\$100,126	\$100,126	\$100,126	\$100,126
<i>Subtotal</i>	<i>\$50,063</i>	<i>\$200,252</i>	<i>\$200,252</i>	<i>\$200,252</i>	<i>\$200,252</i>	<i>\$200,252</i>
<u>Code Enforcement</u>						
FTE	2.0	2.0	2.0	2.0	2.0	2.0
Housing Code Inspector III (G23)	\$26,922	\$107,687	\$107,687	\$107,687	\$107,687	\$107,687
<i>Subtotal</i>	<i>\$53,844</i>	<i>\$215,375</i>	<i>\$215,375</i>	<i>\$215,375</i>	<i>\$215,375</i>	<i>\$215,375</i>
<u>Information Technology</u>						
FTE	1.0	1.0	1.0	1.0	1.0	1.0
Information Technology Specialist III (G26)	\$30,128	\$120,510	\$120,510	\$120,510	\$120,510	\$120,510
<i>Subtotal</i>	<i>\$30,128</i>	<i>\$120,510</i>	<i>\$120,510</i>	<i>\$120,510</i>	<i>\$120,510</i>	<i>\$120,510</i>
Subtotal Personnel Costs	\$134,034	\$536,137	\$536,137	\$536,137	\$536,137	\$536,137
Operating Expenditures						
One-Time Purchase of Two Vehicles for Inspectors	\$113,828					
Vehicle Operation and Maintenance	\$1,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000
One-time Equipment to Support Staff (Laptop, Phone, Supplies)	\$20,610					
Ongoing Staff Communications and Software Costs	\$655	\$2,620	\$2,620	\$2,620	\$2,620	\$2,620
Subtotal Operating Expenditures	\$136,093	\$6,620	\$6,620	\$6,620	\$6,620	\$6,620
GRAND TOTAL EXPENDITURES	\$270,127	\$542,757	\$542,757	\$542,757	\$542,757	\$542,757

* Personnel costs are lapsed nine months to reflect DHCA's anticipated hiring timeline after bill enactment. Vehicle operations and maintenance and ongoing operating expenditures to support staff communications and software are also anticipated for three months in FY24.

Staff Impact

DHHS Staff Impact: No full DHHS position is devoted to this function. DHHS estimates that a Senior Administrator of DHHS Licensure and Regulatory Services spends 150 hours annually on researching for approval of licensing, corresponding with complainants, answering licensing questions, and sending enforcement letters for violations; and that a field inspector spends a total estimated 25 hours annually verifying violations and an estimated additional 50 hours assisting in complaints and questions. Upon enactment, DHHS plans to repurpose staff time to other functions and will not delete any positions as a result of transferring short-term residential rentals licensing to DHCA.

DHCA Staff Impact: While DHHS required relatively little staff time to administer this function, DHCA advises the bill's strengthened enforcement provisions will necessitate additional staff time to ensure greater compliance with County licensing requirements. There are currently an estimated 1,300 short-term residential rentals in the County, but fewer than 13% are licensed. To license and inspect 1,300 properties, DHCA expects to need two licensing staff and two inspectors. FY24 personnel costs are lapsed nine months to align with DHCA's anticipated hiring timeline after bill passage. DHCA also indicates that an IT position is needed to implement the bill.

DHCA Licensing Staff: A single program specialist is expected to handle approximately 600 properties. Two Program Specialist II (Grade 21) positions are needed to serve the 1,300 short-term residential rentals in the County. The annualized personnel costs for a Program Specialist II position is approximately \$100,100, or \$200,300 for both positions.

DHCA Code Enforcement Staff: In addition, DHCA expects to need two Housing Code Inspector III positions (Grade 23) to inspect properties and investigate complaints. One Housing Code Inspector typically has the capacity for 1,200 inspections per year. However, Short Term Residential Rental inspections are expected to differ from DHCA's other inspection work because there will be a need for: re-inspections if violations are found at a property; multiple visits prior to issuance of a citation; and a post-citation inspection before civil citations are adjudicated. Annualized personnel costs for a Housing Code Inspector are \$107,700, or \$215,400 for both positions.

DHCA Information Technology Staff: DHCA indicates that its existing IT capacity cannot absorb the increased workload associated with required enhancements of existing Licensing and Code Enforcement databases, as well as ongoing infrastructure maintenance to support integration of the Host Compliance platform into DHCA's IT systems. DHCA estimates that an Information Technology Specialist III (Grade 26) will be needed to implement the bill. Annualized personnel costs for an Information Technology Specialist III are \$120,500.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

DHHS currently utilizes an online database for tracking, enforcement, and licensing of short-term residential rentals. Upon transferring the function to DHCA, DHHS' use of the database will end (decreasing DHHS expenditures by \$80,000). DHCA plans to continue to use the DHHS' existing database contract at the same cost. As a result, there is no expected net expenditure increase for database costs after enactment. In addition, as described in the *Staff Impact* section of this analysis, DHCA anticipates needing one Information Technology Specialist III to implement the bill.

Other Information

Later actions that may impact revenue or expenditures if future

The bill does not authorize future spending.



spending is projected

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

DHCA expects a significantly higher frequency of applications, licenses, and citations issued than DHHS' recent experience. Revenue estimates could vary significantly depending on the accuracy of DHCA's estimates. For example, upon more stringent enforcement, currently unlicensed short-term residential rentals could choose to either apply for a license or discontinue operations. Until the effect of stringent enforcement begins to influence licensing and citation rates, the impact on revenues will likely remain unpredictable. Operating expenditures also depend on DHCA's expectation that there will be increased applications for licenses and increased enforcement activity. If the demand for licensing services and enforcement is different than current estimates, the staff needed to effectively implement the bill will vary.

Contributors

Tamala Robinson, DHCA
Tiffany Johnson, DHCA
Melissa Nolin, DHCA
Nathan Bovelle, DHCA
Pofen Salem, DHCA
Jason Rundell, DHHS
Kenneth Welch, DHHS
Anita Aryeetey, OMB
Grace Pedersen, OMB





June 5, 2023

To: The Honorable Evan Glass
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

From: Montgomery County Planning Board

Subject: Bill 22-23 and Zoning Text Amendment No. 23-04

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on June 1, 2023 and by a vote of 5:0 recommended modifications to Bill 22-23, and to not support Zoning Text Amendment (ZTA) 23-04. This paired Bill and ZTA would amend the county's rules and enforcement mechanisms pertaining to Short-Term Residential Rentals. These changes include shifting the primary enforcement of Short-Term Residential Rentals from the Department of Health and Human Services (DHHS) to the Department of Housing and Community Affairs (DHCA), modifying the license process, clarifying the rules around challenges, suspensions, revocations, appeals of licenses and enforcement actions, and modifying rules on who can apply both as a host and as a tenant of a Short-Term Residential Rental.

The Planning Board supports many of the technical elements of Bill 22-23, including the reassignment of enforcement to DHCA, amending some of the application requirements, clarifying the challenge process for applications, the suspension or revocation of rental licenses, and the appeals process. The Board however has major concerns over many of the policy aspects of the Bill such as increasing the first time and maximum penalties for violations, removing owner-authorized residents from being applicants, or limiting the total number of guests based on bedrooms without exceptions for children. The request for these changes seemed to be based on unspecified concerns over enforcement described in the County Executive's transmittal. Without further explanation, there is no way to discern if these policy changes will result in meaningful improvement to enforcement or if the result will instead result in reduced flexibility for lessors and travelers. Staff asked for the complaints that were cited as the need for the policy changes and none were provided.

The Board does not support any of the proposed changes in ZTA 23-04 and recommends the ZTA not be approved. The only changes proposed in the ZTA were two of the policy changes that are also not supported in the Bill; removing owner-authorized residents from the process and placing limits on renters to no more than two per bedroom, with a total guests limited at six.

The Honorable Evan Glass

June 5, 2023

Page Two

The Board appreciates the opportunity to pass along its comments for Bill 22-23 and ZTA 23-04. The Board appreciates the added clarity to the entire application and licensing process for Short-Term Residential Rentals but remains concerned the proposed changes to their operations do more harm than good. Planning Staff are available and committed to work with the Council as the Bill and ZTA move forward.

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 Wheaton, Maryland, on Thursday, June 1, 2023.



Jeffrey Zyontz

Chair

Attachments: A - Planning Staff Report
B - Introduction Packet for Bill 22-23 and ZTA 23-04
C - Climate assessment For ZTA 23-04



**RESIDENTIAL USES – SHORT TERM RESIDENTIAL RENTALS
ZTA 23-04 & BILL 22-23**

Description

Bill 22-23 and ZTA 23-04 amend provisions around Short-Term Residential Rentals. Bill 22-23 reassigns licensing and enforcement responsibilities to the Department of Housing and Community Affairs, modifies the application process, increases penalties and clarifies the processes for challenges, suspensions, revocations and appeals. ZTA 23-04 limits the total number of overnight guests regardless of age, and removes owner-authorized agents or residents from applying for the use.

ZTA 23-03
Completed: 5-25-2023

MCPB
Item No. 6
6-1-2023

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
Wheaton, MD 20902

Planning Staff

BB

Benjamin Berbert, Planner III, Countywide Planning and Policy
Benjamin.Berbert@montgomeryplanning.org, 301-495-4644

ymg

Lisa Govoni, Planner IV, Countywide Planning and Policy
Lisa.Govoni@montgomeryplanning.org, 301-650-5624

JS

Jason Sartori, Chief, Countywide Planning and Policy
Jason.Sartori@montgomeryplanning.org, 301-495-2172

ZTA SPONSORS

Lead Sponsor: Council President Glass, at the request of the County Executive

INTRODUCTION DATE

April 18, 2023

REVIEW BASIS

Chapter 54

Chapter 59



Summary:

- Bill 22-23 and ZTA 23-04 will amend the provisions for Short-Term Residential Rentals.
- Bill 22-23 will reassign enforcement responsibility to DHCA; increase the maximum penalty; amend the application process; and clarify the processes for challenges, suspensions, revocations, and appeals.
- ZTA 23-04 will require the dwelling unit to be the property owner's primary residence, limit the number of overnight guests regardless of age, and remove language for owner-authorized agents.

TABLE OF CONTENTS

SECTION 1: BACKGROUND	3
RATIONALE FOR INTRODUCTION	3
SECTION 2: BILL 22-23 AND ZTA 23-04 AS INTRODUCED	3
BILL NO. 22-23 AS INTRODUCED	3
ZTA NO. 23-04 AS INTRODUCED	6
SECTION 3: BILL & ZTA ANALYSIS AND RECOMMENDATIONS	6
BILL 22-23 ANALYSIS AND RECOMMENDATIONS	6
ZTA 23-04 ANALYSIS AND RECOMMENDATIONS	8
SECTION 4: LEGISLATED ANALYSIS.....	8
CLIMATE ASSESSMENT.....	9
RACIAL EQUITY AND SOCIAL JUSTICE (RESJ).....	9
SECTION 5: CONCLUSION	9
ATTACHMENTS	9

SECTION 1: BACKGROUND

RATIONALE FOR INTRODUCTION

Zoning Text Amendment (ZTA) 23-04, Residential Uses – Short-Term Residential Rental, and Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental were both introduced April 18, 2023 (Attachment A). A tentative Council Public Hearing date is set for both items on June 13, 2023. The ZTA and the bill were both introduced at the request of the County Executive.

These changes to existing county law are requested by the Executive Branch in part because there have been occasions of short-term residential rentals resulting in potential threats to public safety. These instances have highlighted shortcomings in the existing law and in its enforcement mechanisms. Some of the changes proposed by Bill 22-23 have a correlation to ongoing Council discussions on Bill 6-23 Sharing Economy Rental, such as which county agency is responsible for enforcement, the expected types of civil penalties, and general limitations around the prospective uses.

SECTION 2: BILL 22-23 AND ZTA 23-04 AS INTRODUCED

BILL NO. 22-23 AS INTRODUCED

Bill 22-23 amends the provision for Short-Term Residential Rentals. Bill 22-23 reassigns enforcement of short-term rentals from the Department of Health and Human Services (DHHS) to the Department of Housing and Community Affairs (DHCA). The bill also increases the maximum penalty, amends the application process, and clarifies the processes related to challenges, suspensions, revocations, and appeals.

Definitions

Under Section 54-1, Definitions, director means the Director of Department of Housing and Community Affairs, or the Director's designee in Article III (Bed and Breakfast and Short-Term Residential Rental).

Department means the Department of Health and Human Services in Article II (hotels), and Department means the Department of Housing and Community Affairs in Article III (Bed and Breakfast and Short-Term Residential Rental).

The definition of primary resident is also added, which is defined as a person who regularly resides at the location designated for legal purposes of obtaining a driver's license and filing tax returns or any other proof of occupancy approved by the Director.

The definition of short-term residential rental is amended to add “by the same individuals.” The proposed definition reads “means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days by the same individuals as allowed under Section 59-3.3.3. I of this Code.”

Authority of Executive to Regulate and License

Section 54-2 is amended to allow the Executive to adopt regulations, under method (3)¹, concerning the operation, maintenance, conduct, application, licensing, and license fees for a hotel, short-term residential rental, or bed and breakfast.

These changes allow the Executive to adopt regulations related to applications for hotel, bed and breakfasts, with the new addition of short-term residential rentals.

Violation of Article; Penalties

The penalty for a civil violation under Section 54-4 is a class A violation. The maximum penalty for a civil violation is increased to \$1,000 for an initial or repeat offense (increased from \$500 for an initial offense, and \$750 for a repeat offense). Each day a violation continues is a separate offense.

Application for License

Section 44-53 adds several new additions, modifications or clarifications to the application for license of a bed and breakfast and short-term rental. They include:

1. The applicant must be the owner of the dwelling unit where the bed and breakfast or the short-term residential rental is located (as modified from the owner or owner-authorized agent of the facility).
2. The applicant will maintain a registry of all guests at the bed and breakfast or the short-term residential rental, readily available for inspection by the department.
3. The applicant has not been found guilty of a violation of this Chapter in 36 months (changed from 12 months).
4. The number of registered guests in the short-term residential rental who are 18 years or older is limited to two per bedroom, provided that the total number of registered guests in the short-term residential rental must not exceed six, regardless of age. Currently, 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 18 years of older is limited to two per bedroom.
5. The dwelling unit will not be used as a short-term residential rental for no more than 120 days in a calendar year when the property owner is not physically present.

¹ Method 3 fee regulations are approved by the County Executive.

License Approval and Renewal

The Director of DHCA must review the application, including supporting documents provided by the applicant, for conformance with the chapter and all other applicable laws and regulations. This a change, where the current law requires the Director to accept the self-certification of the applicant after verifying compliance. The Department may also inspect the property.

This section (54-45) also changes the timeline requirements for license or license renewal approval or denial from 15 days to no earlier than 30 and no later than 60 days.

If the license is approved, written notice on the issuance of the license and procedure to file an appeal with the Board of Appeals is required to the parties in section 54-43(n), which includes abutting and confronting neighbors in a single-unit or attached unit, neighborhoods living across the hall and those that share a ceiling, floor, walls, with the applicant's unit in a multi-unit building, the municipality in which the bed and breakfast or short-term residential rental is located, an applicable homeowner's association, condominium, or housing cooperative.

Challenge to Applications

Within 30 days after the application is filed, a challenge may be filed with the Director by any party entitled to notice. Parties entitled to notice include abutting and confronting neighbors in a single-unit or attached unit, neighborhoods living across the hall and those that share a ceiling, floor, walls, with the applicant's unit in a multi-unit building, the municipality in which the bed and breakfast or short-term residential rental is located, an applicable homeowner's association, condominium, or housing cooperative.

Suspension and Revocation

The Director may suspend or revoke any license issued if the Director finds that the licensee:

1. Has violated this Chapter or any other applicable law or regulation.
2. Has operated, or permitted to be operated, the bed and breakfast or short-term residential rental in a manner that is disruptive to the general peaceful enjoyment of the community, dangerous to the health and safety of the community, or is a nuisance because of noise or other activity.
3. Has been convicted of violating any of the provisions of the Criminal Law Article of the Maryland Code listed in in Section 54- 20 while operating the bed and breakfast or short-term residential rental.

This is a change from the current law, where the license may be suspended for any applicant receiving at least three verified complaints as a violation of the license in 12-months.

Prior to suspension or revocation, the Director may require the holder of the license to appear before the Director and show cause as to why the license should not be suspended or revoked.

Appeals

Any person aggrieved by the issuance, renewal, denial, revocation or suspension of a bed and breakfast license or short-term rental license may appeal the Director's decision to the Board of Appeals within 30 days of the Director's decision.

ZTA NO. 23-04 AS INTRODUCED

ZTA 23-04 makes changes to the use standards for Short-Term Residential Rental, under Section 3.3.3. Accessory Residential Use, subsection I. Short-Term Residential Rental. The first three changes, in subsections b. and c. on ZTA lines 17, 19 and 22 remove the phrase 'or owner-authorized resident'. The current standards in subsection b. allow an eligible dwelling unit to be the owner's, or owner-authorized resident's primary dwelling. With this change, an eligible dwelling unit may only be the owner's primary residence. Subsection c. provides differing standards for how many days a dwelling may be rented based on whether the owner or authorized resident is present or not. The ZTA removed the 'authorized resident' language in keeping with the change to the previous section.

The final change in the ZTA modifies subsection e. on line 29 to remove 'who are 18 years or older'. Currently, there is a limit of up to six overnight guests who are 18 years or older, but otherwise no total limit on the number of guests. The effect of the ZTA caps total guests, regardless of age, at six.

SECTION 3: BILL & ZTA ANALYSIS AND RECOMMENDATIONS

BILL 22-23 ANALYSIS AND RECOMMENDATIONS

The proposed changes in Bill 22-23 effectively do several things:

1. Assigns 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).

During the Council discussion on the creation of the initial Short-Residential Rental ZTA ([ZTA 17-03](#)) and bill ([Bill 2-16](#)), one of the discussion items was about the appropriate enforcement agency². At the time it was decided DHHS would do the enforcement because the agency is currently responsible for licensing and enforcement related to transient lodging and similar facilities. However, Planning staff has no issue with updating the enforcement agency to DHCA since it already handles enforcement for

² http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7407&meta_id=142911

long-term rental housing. It seems appropriate to have DHCA handle enforcement for short-term rentals and bed and breakfasts as well.

2. Increases the maximum penalty for a violation of Article III of Chapter 54.

The maximum penalty under the proposed bill is increased to \$1,000 for an initial or repeat offense, even though it is a Class A violation. Currently, a Class A violation for a civil violation maximum penalty is \$500 for an initial offense, and \$750 for a repeat offense. Planning staff does not understand why the maximum penalty would be higher than what is already in the code for a Class A violation ([Sec 1-19. Fines and penalties](#)) or higher than [the penalty for failing to obtain a rental license](#). Staff supports keeping the maximum penalty for the violation consistent with what is already in the code and what is already the penalty for failing to obtain a rental license, which \$500 for an initial civil violation maximum penalty, and \$750 for a repeat offense.

3. Amends the application process for a bed and breakfast or short-term residential rental license.

One of the biggest changes proposed in the bill is the removal of “owner-authorized agent of the facility” from those that can apply for a license. Planning staff does not support this change. As noted below in the ZTA analysis, this does not allow short-term rentals to be offered by renters who are authorized to do so by their landlord. Previously, there was a noticing requirement of the owner of the unit or the owner’s rental agent if the applicant is not the owner. Staff believes this noticing is sufficient and should be added back in to allow renters who have the approval of their landlord to have a short-term rental.

The new changes also clarify that the dwelling unit will not be used as a short-term residential rental for more than 120 days (about 4 months) in a calendar year when the property owner is not present. Planning staff supports this recommendation, as this requirement is consistent with what is already in the Zoning Code.

Also changed is that the number of registered guests in the short-term residential rental who are 18 years or older is limited to two per bedroom, provided that the total number of registered guests in the short-term residential rental must not exceed six, regardless of age. Currently, 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 18 years or older is limited to two per bedroom, with no limits on guests under 18 years of age.

Planning staff does not support the recommended changes, as it views the changes as potentially too restrictive to families traveling to the county. Staff would support amending this section of the bill to continue limiting adults to no more than six and cap the total rental size based on two guests of any age per bedroom. A second option would be to provide some type of exemption for parties larger than six from the same immediate family unit.

4. Clarifies the process for challenging an application for bed and breakfast or short-term residential rental license.

Planning staff supports the recommended changes, which would change the license approval process from self-certification to a review by the Director of DHCA and allow inspection.

5. Clarifies the process for suspending or revoking a bed and breakfast or short-term residential rental license.

Planning staff supports the recommended changes, which provide clear guidance on suspension and revocation of a license.

6. Clarifies the process for appealing the Director's decision on a bed and breakfast or short-term residential rental license to the Board of Appeals.

Planning staff supports the recommended change, which would allow for the appeal of DHCA's decision to the Board of Appeals within 30 days of the Director's decision.

ZTA 23-04 ANALYSIS AND RECOMMENDATIONS

While the changes proposed in ZTA 23-04 are minor, Planning staff has some concerns. The first change discussed was the three instances where 'or owner-authorized resident' is being deleted from the code. This effectively cuts out 35% percent of the households in the county from being able to participate in Short Term Residential Rentals because they are renter rather than owner occupied dwellings. Planning staff also note that rental units in the county are disproportionately non-white, setting up a racial equity issue. While it is likely that most residential leases contain restrictions on further sub-letting, some may not, and may even have express permission from the property owner. As such, Planning staff does not support a blanket prohibition on removing owner-authorized residents, and instead recommends amendments in the accompanying Bill to better define how a renter must receive authorization from the landlord, in addition to setting up clear parameters for enforcement should that become necessary.

The other concern is the change in the number of allowed Short Term Residential Rental tenants. The current code limits rentals to two adults per bedroom with a maximum of six adults and places no limits on the number of children. Planning staff understands there may be issues related to crowding and nuisances when large numbers of adults share a property, but is concerned the proposed change to limit total guests to six may be too restrictive for single, larger family units traveling together. Staff would support amending this section to continue limiting adults to no more than six, and cap the total rental size based on two guests of any age per bedroom. A second option would be to provide some type of exemption for parties larger than six from the same immediate family unit.

SECTION 4: LEGISLATED ANALYSIS

CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to transmit a climate assessment for each zoning text amendment, master plan, and master plan amendment, effective March 1, 2023. Each climate assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and upon community resilience and adaptive capacity. The climate impact assessment for ZTA 23-04 is attached in Attachment B. The Climate Assessment anticipates no changes to greenhouse gas emissions, carbon sequestration, community resilience or adaptive capacity as a result of the ZTA.

RACIAL EQUITY AND SOCIAL JUSTICE (RESJ)

Planning staff has included the RESJ statement from the Office of Legislative Oversight (OLO) as Attachment C to this report. OLO could not discern the net impact of ZTA 23-04 on RESJ in the county because data on the demographics of both existing rental providers and existing renters are unavailable.

SECTION 5: CONCLUSION

Planning staff recommends that the Planning Board support Bill 22-23 and ZTA 23-04 with recommended modifications. These modifications include:

1. Keep the maximum penalty for a violation consistent with County Code for a Class A violation (\$500 for an initial civil violation maximum penalty, and \$750 for a repeat offense).
2. Revert the language back to allow for owner-authorized agents of the facility, to allow authorized renters to have a short-term rental.
3. Continue limiting adult guests to no more than six and cap the total rental size based on two guests of any age per bedroom. An alternative is to provide an exemption for parties larger than six from the same immediate family unit.

MEMORANDUM

October 9, 2023

TO: Planning, Housing, and Parks (PHP) / Health and Human Services (HHS) / Economic Development (ECON) Committees

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental
ZTA 23-04, Residential Uses – Short-Term Residential Rental

PURPOSE: Worksession #1

INVITED ATTENDEES

- Artie Harris, Chair, Planning Board
- Tanya Stern, Acting Director, Planning Department
- Jason Sartori, Chief – Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III – Countywide Planning & Policy, Planning Department
- Kenneth Welch, Environmental Health Manager – Licensure and Regulatory Services, Health and Human Services (DHHS)
- Scott Bruton, Director, Department of Housing and Community Affairs (DHCA)
- Pofen Salem, Division Chief – Finance, DHCA
- Nathan Bovelleville, Division Chief – Community Development, DHCA
- Tamala Robinson, Manager – Code Enforcement, DHCA
- Tiffany Johnson, Manager – Licensing, DHCA
- Ehsan Motazed, Deputy Director, Department of Permitting Services (DPS)
- Victor Salazar, Division Chief – Zoning and Code Compliance, DPS
- Commander David McBain, Patrol Services Bureau – 3rd District Station, Montgomery County Department of Police (MCPD)

INTRODUCTION

Bill 22-23, Transient Lodging Facilities – Short-Term Residential Rental and Zoning Text Amendment (ZTA) 23-04, Residential Uses – Short-Term Residential Rental, lead sponsor Council President Glass at the Request of the County Executive, were introduced on April 18, 2023.

Bill 22-23 and ZTA 23-04 will amend the provisions for Short-Term Residential Rentals and Bed and Breakfasts. Bill 22-23 will reassign enforcement responsibility to DHCA; increase the maximum penalty; adjust the application process; and clarify the processes for challenges, suspensions, revocations, and appeals. ZTA 23-04 will limit the number of overnight guests regardless of age and remove language for owner-authorized agents.

PUBLIC HEARING

A public hearing on both the bill and the ZTA was held on June 13, 2023. Several speakers testified, both in opposition and support. Written testimony reflected the testimony provided during the public hearing.¹

Those in support testified that home rentals are not like hotels, so enforcement should be moved to DHCA. Testimony reflected that while many operate short-term residential rentals without problems, there have also been negative community impacts from some operators due to parking issues, increased traffic, and loud parties. Testimony expressed concern that short-term residential rentals drive out affordable housing, that poorly operated short-term residential rentals are disruptive to the community, and that the County has had issues with enforcement. Those in support noted that the bill and ZTA would provide the County with increased enforcement abilities and provide neighbors with more meaningful opportunities to object to proposed short-term residential rentals.

In opposition to the bill and ZTA, many testified that they benefit from operating short-term residential rentals because it provides additional income that allows residents to stay in the County, improve their homes, and age in place. In addition, testimony explained that short-term residential rentals benefit many visitors to the County, including traveling nurses and those who need to stay in the County for longer than a few days. Airbnb testified that a large portion of hosts are women or senior citizens. Those opposed testified that the bill and ZTA would unnecessarily limit tenant rights. Some testified that jurisdiction should stay with HHS because of health and safety concerns, such as those who rent their homes and have swimming pools. Testimony also asked to allow accessory dwelling units (ADUs) to operate short-term residential rentals.

SUMMARY OF IMPACT STATEMENTS

Racial Equity Impact Statement

Bill 22-23

The Office of Legislative Oversight (OLO) found that the racial equity and social justice (RESJ) impact of Bill 22-23 is indeterminant. The impact statement notes the sharing economy industry has been characterized by racial inequities and disparities, because while the platforms provide increased access to goods and services, research suggests the benefits are not equally distributed amongst guests or hosts. OLO examined each stakeholder group and found that:

¹ Written testimony can be found here: <https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20230613/index.html>

- homeowners could face increased costs from stronger enforcement, and that while the majority of homeowners in the County are white or Asian, BIPOC homeowners are cost-burdened at higher levels;
- constituents using bed and breakfasts and short-term residential rentals could benefit from stronger enforcement of health and safety protocols but could as a result face higher prices; and
- constituents living near bed and breakfasts and short-term residential rentals could benefit from stronger enforcement mitigating inconveniences, but it is unclear whether certain communities could be subject to more enforcement than others and whether racial and ethnic disparities in enforcement could emerge by community demographics.

ZTA 23-04

OLO could not discern the net impact of ZTA 23-04 on racial equity and social justice (RESJ) in the County because demographic data regarding the providers and the users of short-term residential rentals in the County was not available.

Climate Assessment

Bill 22-23

OLO anticipates Bill 22-23 will have no impact on the County's contribution to addressing climate change as the Bill is proposing changes to existing laws governing bed and breakfast and short-term residential rentals to ensure County law enforcement of these rentals.

ZTA 23-04

The Planning Board anticipates ZTA 23-04 will have insignificant to no impact on community resilience and adaptive capacity, and that none of the changes proposed in ZTA 23-04 will alter the use in ways that would have significant greenhouse gas emission or carbon sequestration or drawdown-related impacts.

Economic Impact Statement

OLO found that enacting Bill 22-23 would have a neutral impact on economic conditions in the County in terms of the Council's priority indicators. OLO predicted the bill would increase operating costs and decrease revenues for homeowners who operate bed and breakfasts and short-term residential rentals; and that the bill would increase rents for resident customers but that this negative impact would be mitigated by homeowners passing a portion of the higher costs to non-resident customers. OLO also noted that enhanced enforcement could prevent certain homeowners' associations from banning short-term residential rentals which would decrease the market.

Fiscal Impact Statement

The Office of Management and Budget (OMB) found that under Bill 22-23 revenues are projected to increase by \$48,800 in FY24, with annualized revenues of at least \$218,000 beginning in FY25

and each year thereafter. OMB notes that this is a net change in expenditures and revenues, meaning the figures are offset by expenditure reductions DHHS is expected to see. The revenue figures assume no revenue from citation fines will be collected in FY24 as the program is initiated and new staff are hired. OMB expects increased enforcement to result in license applications increasing to 1,300 to align with the number of short-term residential rental properties that are estimated to be currently operating in the County. Under the strengthened enforcement provisions, DHCA expects to issue approximately 50 citations in the first full year and for citations to increase by one each year thereafter, generating \$1,000 in revenue per citation.

Expenditures are estimated to increase by \$270,100 in FY24, increasing to \$542,700 beginning in FY25 and each year thereafter. Expenditures are expected to increase to support additional staff, vehicle purchases, and other miscellaneous operating costs. DHCA expects to need two licensing staff, two inspectors, and one IT specialist which would create \$536,100 in new personnel costs annually. Operating expenditures are comprised of the miscellaneous operating supplies needed for the new positions (\$20,600 one-time and \$2,600 ongoing costs) and two vehicles to facilitate the Housing Code Inspectors' property inspections and enforcement work (\$113,800 one-time vehicle purchase and \$2,000 ongoing operation and maintenance costs).

Planning Board Recommendation

The Planning Board met on June 1, 2023, and unanimously recommended modifications to Bill 2-23. The Board unanimously did not support ZTA 23-04.

The Board supported most of the technical changes made in Bill 22-23, including reassignment to DHCA; amendment of the application requirements; and clarification of the processes for challenges, suspension, revocation, and appeals. However, the Board had major concerns about many of the policy changes such as increased penalties, removing owner-authorized residents, and limiting the number of guests without exceptions for children. The Board noted that it was unclear whether these changes would result in meaningful improvement in enforcement, or whether they would instead reduce flexibility for both hosts and guests. The Board did not support any of the changes in ZTA 23-04 for the same reasons.

BACKGROUND

History of Short-Term Residential Rentals

Before the passage of a bill and ZTA allowing short-term residential rentals, residential occupancy of a dwelling was only allowed on a monthly or longer basis. After introduction and public hearing on the original bill and ZTA in 2016, the Council asked the Planning Department to conduct additional public outreach. Three public meetings were held, including meeting with the relevant agencies. At the time, public testimony ranged from support for the bill and ZTA because of the additional income that could be generated; hesitancy from the hotel industry due to the competition caused; concern about the reduction of affordable housing; and opposition due to potential increases in noise, traffic, and crime. These discussions generated a new ZTA and bill, that were

passed by the Council in October 2017 with effective dates of July 1, 2018.^{2,3} Many issues were addressed, including parking, the number of guests allowed, the number of rentals a year, and licensing provisions.

An applicant must go through the following steps to operate a short-term residential rental:⁴

1. Notify immediate neighbors, as well as any applicable homeowners' or condominium association.
2. Apply for a Maryland State Sales Use and Tax ID number.
3. Apply for the County's Room Rental and Transient Tax through the Department of Finance.
4. Complete the Short-Term Residential Rental Registration/Renewal Form.

From a zoning perspective, a short-term residential rental is allowed as a limited use in all zones except for the Industrial zones. It must satisfy the following standards:

1. Prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.⁵
2. Must be the property owner's or owner-authorized resident's primary residence.
3. If the property owner or owner-authorized resident is not present in the residence, the property can be used as a Short-Term Residential Rental for a maximum of 120 days in a calendar year.
4. The total number of overnight guests who are 18 years or older is limited to six.
5. The total number of overnight guests over 18 years of age per bedroom is limited to two.
6. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.

Intent of Bill 22-23 and ZTA 23-04

² On October 10, 2017, the Council passed Bill 2-16 (10/10/2017 Council Session, Item #6A) and, sitting as the District Council, passed ZTA 17-03 (10/10/2017 District Council Session, Item #4E).

³ The Zoning Ordinance does not apply to: Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg, and Washington Grove. Municipalities may opt out of Chapter 54. Chapter 54 does not apply to: Chevy Chase Village, Chevy Chase, Chevy Chase, Gaithersburg, Garrett Park, Kensington, Laytonsville, Poolesville, Rockville, Somerset, and Washington Grove.

⁴ Application information is currently found on DHHS' website, here:

<https://www.montgomerycountymd.gov/HHS/LandR/ShortTermResidentialRental.html>.

⁵ Council has received requests to allow ADUs to be used for short-term residential rentals. ADUs were not originally included because of the conflict between allowing short-term residential rentals while not depleting the supply of affordable longer-term housing. Those who have made the request for this change describe a scenario where an ADU is created to care for an ailing relative, and the potential income that can be generated by creating a short-term residential rental in the ADU after the relative passes. Council Staff notes that the owner of an ADU could still obtain a rental housing license. A short-term residential rental only applies to residential occupancy of a dwelling unit for a fee for less than 30 consecutive days.

According to the County Executive, while most short-term residential rentals operate within the County’s regulatory framework, others “cause serious problems for neighboring properties and, in at least one case, potential threats to public safety.” This is confirmed in the Economic Impact Statement, which states that DHHS and DPS reported that only a small number of short-term residential rentals receive complaints. To address the complaints, Bill 22-23 and ZTA 23-04 include recommended changes from the County Attorney’s Office, DHHS, and DHCA to address the perceived shortcomings in County Law, particularly in enforcement. Of note, while much of the testimony centers around short-term residential rentals such as Airbnb or Vrbo, this section of the County Code also applies to bed and breakfasts.

MCPD reports that they do not have any datasets that separate out the complaints for short-term residential rentals, so cannot provide information on the number of complaints received related to short-term residential rentals. DPS reports that while they investigate complaints associated with illegal residential uses, any complaints regarding short-term residential rentals, including licensing issues, are sent to HHS. According to HHS, as of May 2023 (around the time of the public hearing) there were 1,158 advertised short-term residential rentals. However, only 153 had active licenses. There were 3 bed and breakfasts currently licensed. Complaints and inquiries are primarily through MC311. The County Executive’s Office testified that the County receives 2-3 complaints per week, generally for unlicensed or reoccurring problem properties.

Provisions of Bill 22-23 and ZTA 23-04

Some of the bracketed and underlined language in Bill 22-23 represents language that is being moved, not necessarily changes in the law. Therefore, to aid in discussion, Council Staff has created the below table to identify what provisions currently exist and how Bill 22-23 and ZTA 23-04 would change them.

Bill 22-23

Current Provision	New Provision
Jurisdiction	
- DHHS	- DHCA
Application for a License	
- Record of all overnight guests must be maintained and readily available for inspection.	<ul style="list-style-type: none"> - Must maintain a permanent register with details on each visitor, including name, address, date and time of rental, and license plate number. - Must be kept for at least 3 years and be available for inspection.
- Applicant is owner or owner-authorized agent	- Add definition for primary resident ⁶

⁶ Primary residency was always required. However, it was previously undefined. The new definition is “a person who regularly resides at the location designated for legal purposes of obtaining a driver’s license and filing tax returns or any other proof of occupancy approved by the Director.”

	- Applicant is the owner
- Total number of overnight guests 18 or older is limited to 6, with total number of overnight guests over 18 per bedroom limited to 2	- Total number of overnight guests limited to 2 per bedroom, and total number of guests must not exceed 6, regardless of age
- Designated representative lives within 15 miles of unit and is accessible for entirety of contract when primary resident is not present	- Designated representative must live within 15 miles of unit; be identified by name, address, and phone number; and be available to Department for entirety of contract
- “smoke detectors in all units and carbon monoxide detectors in all units using natural gas operate as designed”	- “smoke detectors (and carbon monoxide detectors where natural gas is used) operate as designed” ⁷
- Applicant has not been found guilty of a violation of Chapter in 12 months	- Applicant has not been found guilty of a violation of Chapter in 36 months
License Approval & Renewal	
- Director must accept self-certification of applicant after verifying compliance by reviewing available records	- Director must review application, including supporting documents provided, for conformance
- *current legislation is silent on inspections	- Director may inspect the property
- Director must approve or deny license within 15 working days of receipt of completed application	- Director must approve or deny license no earlier than 30 days and no later than 60 days after receipt of completed application
- Must issue license for term of 1 year renewable for one-year terms	- Must, if license approved, and subject to re-application, issue license for term of 1 year renewably for one-year terms - Must provide written notice to all parties entitled to notice of issuance of license and procedure to file appeal with BOA
- Challenge may be filed by: <ul style="list-style-type: none"> o a resident or owner of real property located within 300 feet of a licensed or proposed license; 	- Challenge may be filed by any party entitled to notice, which includes: <ul style="list-style-type: none"> o in a single-unit or attached unit, abutting and confronting neighbors;

⁷ Council Staff believes the intent of this change is to clarify the natural gas reference applies to the carbon monoxide detector, not the smoke detector, consistent with Section 26-8A which states: “The owner of each occupied single-unit, two-unit, and townhouse dwelling unit containing a fuel burning appliance or attached garage must install carbon monoxide detection and warning equipment.”

<ul style="list-style-type: none"> ○ the municipality in which the residence is located; ○ any applicable homeowners association, condominium, housing cooperative; or ○ the owner of the unit or the owner’s rental agent, if the applicant is not the owner 	<ul style="list-style-type: none"> ○ in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant’s unit; ○ the municipality in which the bed and breakfast or short-term residential rental is located; and ○ any applicable homeowner’s association, condominium, housing cooperative
<ul style="list-style-type: none"> - License must be suspended for any applicant receiving 3 complaints that are verified as a violation of the license or County Code within a 12-month period 	<ul style="list-style-type: none"> - Director may suspend or revoke license if licensee violates Chapter or any other applicable law or regulation; has operated in a manner disruptive to the general peaceful enjoyment of the community, dangerous to the health and safety of the community, or is a nuisance because of noise or other activity; or has been convicted of violating any provisions of Criminal Law Article of Maryland Code while operating a rental
<ul style="list-style-type: none"> - Renewal or reinstatement of license must follow procedures established by Director 	<ul style="list-style-type: none"> - Prior to suspension or revocation, Director may require licensee to appear before Director and show cause why license should not be suspended or revoked
<ul style="list-style-type: none"> - Any person aggrieved by license approval, denial, or revocation may appeal to BOA - BOA must hold hearing on appeal within 60 days of notice of appeal being filed, and must act on appeal within 30 days of hearing 	<ul style="list-style-type: none"> - Any person aggrieved by license issuance, renewal, denial, or revocation may appeal to BOA within 30 days of Director decision
<ul style="list-style-type: none"> - Class A violation 	<ul style="list-style-type: none"> - Class A violation, with maximum penalty of \$1,000 and each day a separate offense

ZTA 23-04

Current Provision	New Provision
<ul style="list-style-type: none"> - Owner or owner-authorized agent 	<ul style="list-style-type: none"> - Owner
<ul style="list-style-type: none"> - Total number of overnight guests 18 or older is limited to 6, with total number 	<ul style="list-style-type: none"> - Total number of overnight guests limited to 2 per bedroom, and total

of overnight guests over 18 per bedroom limited to 2	number of guests must not exceed 6, regardless of age
--	---

ANALYSIS

Jurisdiction

Bill 22-23 would move short-term residential rental and bed and breakfast licensing and enforcement from DHHS to DHCA. There are several factors to consider in deciding which agency should oversee licensing and enforcement. One question asked when the legislation was originally passed was whether these uses are more like hotels or more like housing. DHHS is in the business of licensing and inspection for commercial entities like hotels, but DHCA has the expertise for long-term rentals and ADUs.

A second factor to consider is which agency has the appropriate resources. Currently, there is no full-time DHHS position dedicated to this task. According to the Fiscal Impact Statement, DHHS estimated that the Senior Administrator of Licensure and Regulatory Services currently spends 150 hours annually on researching for approval of licensing, corresponding with complainants, answering licensing questions, and sending enforcement letters for violations. And that a field inspector spends a total estimated 25 hours annually verifying violations and an estimated additional 50 hours assisting in complaints and questions. If the bill were enacted as introduced, DHHS does not plan to delete any positions, but rather repurpose staff time to other functions. DHCA estimates that it will need two licensing staff, two inspectors, and one IT specialist were the bill to be enacted as introduced. Of note, DHCA already has subpoena power.

Council Staff recommends licensing and enforcement be moved from DHHS to DHCA. Council Staff advises that if the Committee(s) do not wish to make this change, DHHS will need additional resources, such as licensing staff and inspectors.

Penalty

Bill 22-23 would keep the penalty for violation as a Class A violation. However, it would make the maximum penalty \$1,000 with each day of the violation being a separate offense. Under Sec. 1-19 of the County Code, a Class A civil violation is typically \$500 for the initial offense and \$750 for a repeat offense.⁸ The maximum fine for a Class A criminal violation is \$1000. Planning notes that the penalty for failing to obtain a rental license is \$500 for the initial offense and \$750 for repeat offenses, consistent with Sec. 1-19 of the County Code, and that it is unclear – for example – why the penalty for failing to obtain a short-term residential rental license should be so much higher than the penalty for failing to obtain a rental license. Council Staff assumes the intent of

⁸ The Code states that “any violation of County law that is identified as a Class A, B, or C violation may be punished as a misdemeanor by a fine of *not more than* the amount shown below” (emphasis added), and that “the civil penalty must be in the amount shown below, unless a *lower amount* for a specific violation is set by an executive regulation adopted under method (1)” (emphasis added). However, state law permits civil fines of up to \$1,000 (Md. Code, Local Gov’t § 10-202). Further, line 45 of Bill 22-23 as introduced notes the fine may be increased “notwithstanding Section 1-19.”

this change is to discourage violations, since the County Executive’s Office testified that current penalties can be less than the cost of a single rental.

*Council Staff does not recommend increasing the maximum penalty to \$1,000. While Council Staff understands the need for additional enforcement, especially in an industry where the current fine is less than the cost of doing business, that same logic applies to failure to obtain a rental license. It would be more equitable to change both in a separate bill.*⁹

Registry

County Code requires a record of all overnight guests be maintained and readily available for inspection. For short-term residential rentals and bed and breakfasts, the Code does not currently specify what information that record should contain. Bill 22-23 would place the same requirements for hotels on short-term residential rentals and bed and breakfasts. Those requirements for the registry are name, address, date and time of rental, license plate number, and that the record be kept for at least 3 years.

Unlike hotels, short-term residential rentals and bed and breakfasts are operated by individuals. Guests may have privacy concerns sharing certain personal information, such as an address.¹⁰ For instance, there could be safety concerns if a guest has a negative interaction with a host.¹¹ One justification for the addition of the address may be that it would help MCPD or DHHS with enforcement issues. However, any enforcement matters would be tied to the host, not the guest since the penalty for violating Chapter 54 falls on the license-holder.

While Council Staff agrees with requiring name, date and time of rental, license plate number, and that the record be kept for at least 3 years, Council Staff does not recommend requiring guests provide an address to the host for the registry.

Owners vs. tenants

Bill 22-23 and ZTA 23-04 would only allow a property owner to be an applicant. The County Executive’s written testimony explains that “a dwelling unit where the short-term residential rental is located must be the primary residence of the applicant. It is extremely difficult and time consuming to determine if this is the case. The legislation requires the applicant is the owner of the property and the property is that person’s primary residence as listed by the State Department of Assessments and Taxation.”

⁹ Another suggestion made has been to increase the application fee. Council Staff notes that fees should be limited to what is necessary to cover costs. In addition, if the application fee is too high, it may discourage applicants from applying for a license and instead operating illegally. However, proper enforcement would allow the County to bring those who operate illegally to be brought into compliance.

¹⁰ Rental services such as Airbnb do not reveal this level of information. For example, apps encourage guests and hosts to exchange all messages via the app, rather than taking communications offline such as through personal email addresses. In addition, these apps require hosts to sign privacy agreements. Lastly, personal addresses of guests are not revealed since payment is done through the apps rather than directly.

¹¹ Council Staff acknowledges that in these instances, the guest obviously has the host’s address.

Planning does not support this change, noting that it will not allow short-term residential rentals to be offered by renters even if authorized to do so by their landlord. As noted in the Planning Staff report, 35% of the households in the County would be unable to participate because they are renter-occupied rather than owner-occupied dwellings. And as noted in the RESJ Impact Statement, the majority of homeownership in the County is by white or Asian residents, so limiting the economic benefits of short-term residential rentals to only homeowners could have racial equity and social justice impacts. If enforcement based on property ownership is a concern, Planning Staff recommends amendments that would better define how a renter receives authorization from the landlord. The Code is currently silent on how a renter must provide authorization.

Council Staff does not recommend limiting short-term residential rentals to property owners. However, Council Staff agrees with Planning's recommendation to be clearer on how a renter must provide authorization from their landlord. One suggestion is requiring the owner's signature on the application form. This could include a disclaimer that if enforcement measures are taken, such as a lien, those actions would affect the owner directly.

Also, if the Committee(s) do not agree with the removal of renters, then notice to "the owner of the unit or the owner's rental agent, if the applicant is not the owner" should not be removed in Sec. 54-43.

Number of guests

The current number of overnight guests over the age of 18 for a short-term residential rental or bed and breakfast is 6, with the total number of overnight guests over 18 per bedroom being limited to 2. Bill 22-23 and ZTA 23-04 would keep those numbers but include all guests, regardless of age. According to the County Executive's written testimony, "Some larger homes can accommodate more guests, but this is not always the case, especially when multiple families stay together. We see examples of overcrowding with guests sleeping in areas of the home that lack adequate egress or life-safety equipment."

Planning does not support this recommended change, noting that it could be too restrictive for families traveling to the county. However, Planning did recommend two alternatives:

1. Limiting the number of overnight guests per bedroom to 2 regardless of age.
2. Providing an exemption for parties larger than 6 that are from the same immediate family unit.¹²

Council Staff does not recommend this change to the total number of permitted guests. It could be over-restrictive because it does not consider the size of the home. For example, there are large homes in the County that may easily fit more than 6 total people, such as a 4-bedroom home. Further, this change restricts large families. For example, a family of four children and two adults

¹² Under Section 54-1 of the County Code, a household is defined as "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."

could not bring an additional relative or caretaker.¹³ If number of guests is a concern, Council Staff does agree with Planning's recommendation to limit the number of overnight guests per bedroom to 2 regardless of age. It would also be helpful to reference what the requirements are for bedrooms under Chapter 26 (Housing and Building Maintenance Standards)¹⁴ and Chapter 22 (Fire Safety Code). This would account for the size of the home, and ensure that guests are only sleeping in rooms that meet the County's safety standards for a bedroom.

Designated representative

A designated representative within 15 miles of the unit, who is available as a point of contact when the primary resident is not present, is already required. Bill 22-23 would require that the representative be identified by name, address, and phone number; and be available to the Department when the primary resident is not present.

Council Staff recommends approval of this change.

Approval of licenses

Bill 22-23 will increase the Director's authority to approve, deny, renew, or reinstate a license in the following ways:

- Rather than being required to accept the self-certification of the applicant after verifying compliance by reviewing available records, the Department will be able to inspect the property;
- Increasing the time to approve or deny a license from 15 working days of receipt of completed application to 30-60 days (this increase allows adequate time for neighbors to challenge the application); and
- May require licensee to appear before the Director and show cause why license should not be suspended or revoked.

Council Staff generally recommends approval of these changes. However, Council Staff notes that the Department should provide guidance, such as on its website or on application forms, as to what the requirements for inspection will be. To avoid equity issues and to provide applicants with

¹³ Council Staff notes that currently the 6 adults over the age of 18 provision may already be restrictive on families with adult children. For example, an immediate family made up of two parents and four adult children with spouses would not be able to stay in a short-term residential rental or bed and breakfast in the County.

¹⁴ For example, Section 26-5 states: “**(b) Floor area, sleeping.** In every dwelling unit of 2 or more rooms, every room occupied for sleeping purposes by one occupant must contain at least 70 square feet of habitable space, and every room occupied for sleeping purposes by more than one occupant must contain at least 50 square feet of habitable space for each occupant. However, in a mobile home every room occupied for sleeping purposes by one occupant must contain at least 50 square feet of habitable space; by 2 occupants, at least 70 square feet of habitable space; and by more than 2 occupants, at least an additional 50 square feet of habitable space for each additional occupant.... **(g) Access to sleeping room.** The access to any sleeping room must not pass through another sleeping room.”

proper notice, this should include when an inspection will be called for and what conditions the property must meet.

Revocation or suspension of license

Under current law, an application for a license will not be approved if the applicant has been found guilty of violating Chapter 54 in the last 12 months. Bill 22-23 recommends increasing this to 36 months.

Council Staff recommends approval of this change.¹⁵

Under current law, a license must be suspended if 3 verified complaints are received within a 12-month period. Bill 22-23 recommends instead allowing the Director to suspend or revoke the license for the following reasons:

- Violation of Chapter 54 or any other applicable law or regulation;
- Operating in a manner disruptive to the general peaceful enjoyment of the community;
- Operating in a manner dangerous to the health and safety of the community;
- Operating in a manner that is a nuisance because of noise or other activity; or
- Having been convicted of violating any provisions of Criminal Law Article of Maryland Code while operating a short-term residential rental or bed and breakfast.

Of note, the same language exists for suspension or revocation of a hotel license.

While Council Staff has some concerns about the breadth of this language – for example, what and who determines whether the “general peaceful enjoyment of the community” has been disturbed – Council Staff recommends approval of this language since it is consistent with other language found in the Code. Further, Council Staff’s concerns are alleviated by the ability of a license-holder to appeal the suspension or revocation.

Challenges

Licenses are currently for 1-year terms and can be renewed by the Director. Bill 22-23 will require written notice be provided to the relevant parties when the license is issued or renewed, along with the procedures for filing an appeal. Challenges to an application may currently be filed by:

- a resident or owner of real property located within 300 feet of a licensed or proposed license;
- the municipality in which the residence is located;
- any applicable homeowners association, condominium, housing cooperative; or
- the owner of the unit or the owner’s rental agent, if the applicant is not the owner.

¹⁵ Of note, this could mean that if an applicant operates without a license, once caught they would not be able to get a license for 36 months. This would hopefully encourage those who are currently operating without a license to apply for one.

Bill 22-23 will instead allow a challenge to be filed by the same parties entitled to notice. This includes:

- in a single-unit or attached unit, abutting and confronting neighbors;
- in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant’s unit;
- the municipality in which the bed and breakfast or short-term residential rental is located; and
- any applicable homeowner’s association, condominium, housing cooperative.¹⁶

The only substantive change to those entitled to challenge an application is that a “resident or owner of real property located within 300 feet of a licensed or proposed license” will not be able to file a challenge to the issuance or renewal of a license.¹⁷ Instead, the challenge by a neighbor would need to be from “in a single-unit or attached unit, abutting and confronting neighbors” or “in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant’s unit”, consistent with the parties entitled to receive notice.

Council Staff recommends approval of this change.

Anyone aggrieved by license approval, denial, or revocation may appeal to the Board of Appeals (BOA).¹⁸ The BOA must hold a hearing on the appeal within 60 days of notice of the appeal being filed and must act on that appeal within 30 days of the hearing.¹⁹ Bill 22-23 removes the requirement that BOA must hold a hearing within 60 days and act within 30 days of the hearing.²⁰

Council Staff recommends approval of this change, since the 30- to 60-day timeline is a quick turnaround for the BOA and effects its ability to schedule other equally important matters.

This packet contains:

Bill 22-23

© 1

¹⁶ Bill 22-23 removes notice to “the owner of the unit or the owner’s rental agent, if the applicant is not the owner”, since the bill removes the ability of renters to operate a short-term residential rental or bed and breakfast. As noted above, Council Staff does not recommend this change.

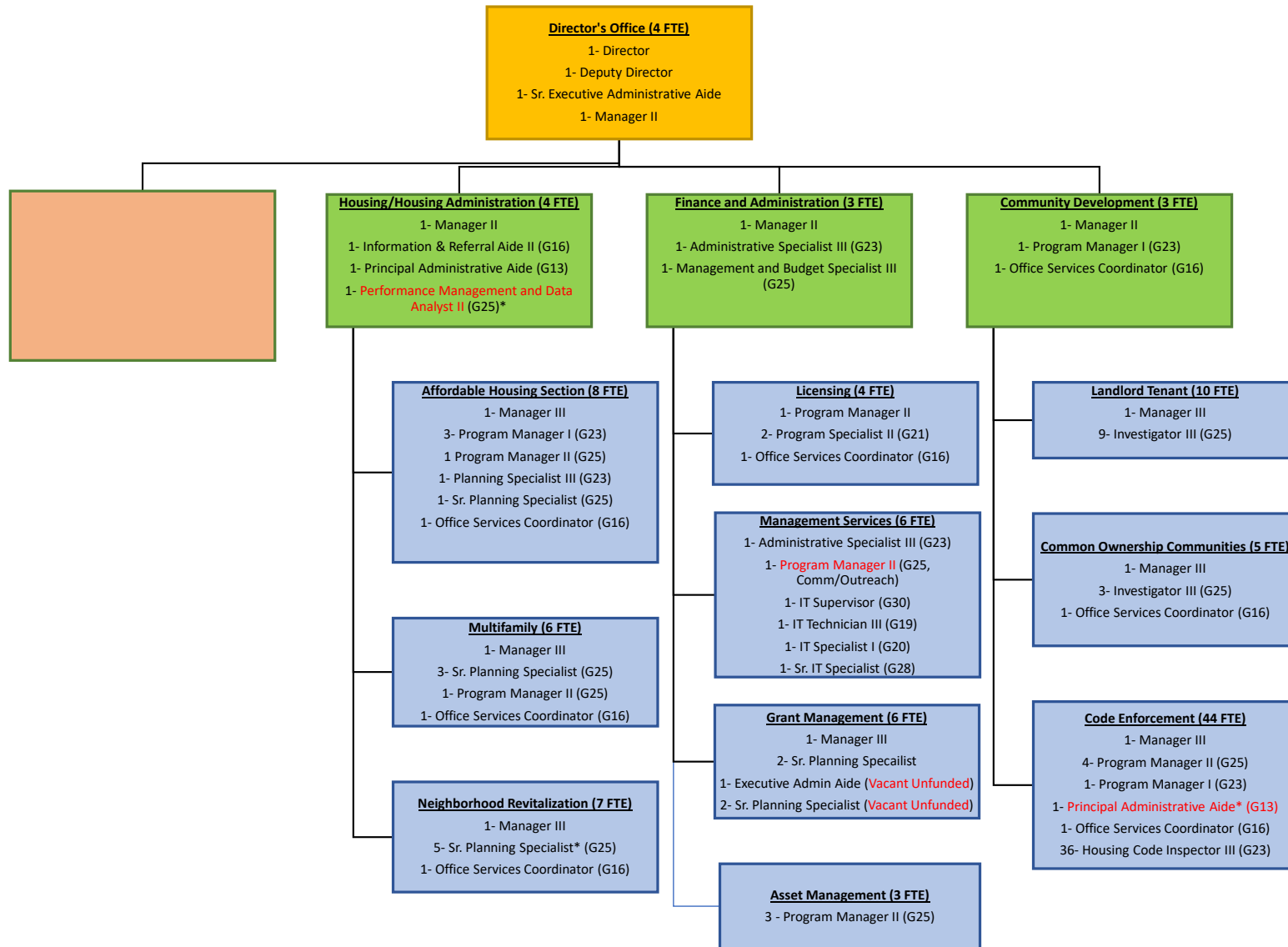
¹⁷ According to Google, the average city block is 330 by 660 feet. 300 feet is also the length of a football field, not including the end zone. Or, for an even more patriotic example, the Statue of Liberty is 305 feet from the ground to the top of the torch.

¹⁸ Note that there is a difference between those who can file a challenge with the Director (the list of parties entitled to notice) and those who can file an appeal (any person aggrieved).

¹⁹ Other administrative appeals allow time for summary disposition (at least 30 days before date of the hearing), prehearing conferences (3-4 weeks before the hearing), and a longer timeframe to issue decisions (45 days).

²⁰ Council Staff has not found any language that clearly stays an application during the appeals process. This means an applicant could choose to keep operating in a situation where they were granted a license and their neighbor appeals the issuance of that license. However, this is the case with many appeals, such as an appeal of a building permit.

ZTA 23-04	© 12
County Executive Transmittal Memorandum	© 16
County Executive Written Testimony	© 18
Legislative Request Report	© 20
Racial Equity Impact Statement for Bill 22-23	© 21
Racial Equity Impact Statement for ZTA 23-04	© 26
Climate Assessment for Bill 22-23	© 28
Climate Assessment for ZTA 23-04	© 31
Economic Impact Statement	© 34
Fiscal Impact Statement	© 38
Planning Board recommendation	© 41
Planning Staff report	© 43



Notes:

1. Rent Stabilization Staff to be approved for recruitment by Council in FY24
2. Data Analyst & PMII will be moved to the Director's Office
3. Re-class PAA in Code Enforcement to Administrative Specialist II (G21) and is waiting for OMB's approval

