

# **Report to the Baltimore County Planning Board in Response to County Council Resolution 13-23: Short-term Rentals**

## **Overview**

[Resolution 13-23](#), passed by the County Council in May 2023, requested the Baltimore County Planning Board to review short-term rentals (STRs) and consider recommendations for legislation and policies governing them. The review is to include the locations of STRs and best practices from similar jurisdictions. This report provides background information, the County's ongoing work in this policy space, and preliminary recommendations for next steps.

Generally, STRs are facilities that offer short-term accommodations, oftentimes for less than a week. Traditionally, short-term stays could be accommodated by a hotel, motel, or a Bed and Breakfast (B&B). In recent years, however, residential properties have emerged as a prominent choice for short-term lodging through online booking platforms such as AirBnB, VBRO, Home Away, and Flipkey.

While proponents suggest that homeowners may benefit financially from renting their property as an STR, others suggest that short-term rentals may negatively alter the character of a neighborhood and can result in unruly behavior. For example, members of the County Council have shared concerns that some STRs are used as entertainment venues, for events or parties. These uses have anecdotally resulted in code violations, citations, and calls for service to the police.

Within the State of Maryland, peer jurisdictions like Montgomery County, Prince George's County, Baltimore City, and Anne Arundel County have passed legislation and implemented required STR registration programs that regulate the uses of STRs. Currently, Baltimore County requires STRs to obtain a rental license but, the property owners are not required to differentiate themselves from long-term rentals.

## **The County's Current Practices**

The County currently regulates rental registration and handles complaints about public nuisances at rental properties. The Department of Permits, Approvals, and Inspections (PAI) regulates rental housing licenses as described in Baltimore County Code Article 35 Buildings and Housing, Title 6 Rental Housing Licenses. As mentioned above, all rental housing is treated the same regardless of the long- or short-term nature of the rental. This includes a license that is good for three years. There is no differentiation between owner occupied and properties that are not owner occupied.

Since short-term rentals are not tracked separately, PAI does not have robust data on the location and number of STRs countywide. To remedy this challenge the County Executive authorized the purchase of a tracking software in fiscal year 2024 that is designed to locate STRs by address and verify that the property at that address has obtained a license from the County. The software, called "Host Compliance," monitors more than 60 vacation rental websites and identifies non-compliant properties. County staff is finalizing the contract with Host Compliance.

Once this software has been installed and integrated with County data, PAI will have a more comprehensive understanding of the location and number of STRs.

Public nuisance complaints first are referred to the Police Department as described below. Code Enforcement does not take any action until a citizen complaint of a public nuisance incident is filed by signed affidavit and the Code Official has confirmed that two complaints or calls for service regarding public nuisances have been recorded with the Police Department, the Animal Control Division, and/or Code Enforcement. The two complaints or calls for service must occur within a 6-month period and may not be two separate complaints about the same public nuisance incident.

Code Enforcement, working with the Administrative Law Judge, has the ability to revoke or suspend a license in addition to imposing a fine.

### **Social Host – Unruly Social Gatherings**

Existing law may prove adequate to address concerns regarding public nuisances such as unruly social gatherings. [Bill 60-21](#), passed by the Baltimore County Council in 2021, established a countywide prohibition on property owners conducting or condoning unruly social gatherings. Begun in 2018 as a pilot program in Towson and Arbutus, the law allows the Baltimore County Police Department to issue warnings and civil citations to hosts of an unruly social gathering, defined in the County Code as “a party, event, or assemblage of four or more persons at a residence or other private property where... behavior or conduct is occurring that results in a substantial disturbance of the peace and quiet enjoyment of private or public property.”

### **Review of Laws in Peer Jurisdictions**

Four Maryland jurisdictions, Montgomery County, Prince George’s County, Baltimore City, and Anne Arundel County, have passed legislation establishing Short-term Rental Registration Programs. Various municipalities, including The City of Annapolis and a number in Montgomery County, have also passed legislation to regulate or outright prohibit short-term rentals. Among the State of Maryland’s larger jurisdictions, Montgomery County passed legislation in 2017 and Anne Arundel County passed legislation in 2021, with Baltimore City and Prince George’s County passing legislation in 2019.

Among the four jurisdictions, various themes emerge, including:

- Creating a short-term rental registration system,
- setting a limit for the number of days an STR could be rented,
- requiring the owner or owner’s agent to be within a certain distance of the STR,
- setting a limit on the number of guests that may stay in an STR, and,
- setting parking minimums for STRs.

All four peer jurisdictions in Maryland created rental registration programs, with varying term length and fee amounts. Generally, licenses are renewed every year or two, at a cost of \$150-\$400. All four jurisdictions require the owner to prominently display emergency contact information within the STR. Two of them also require that the STR’s registration number be displayed.

Some jurisdictions place a limit on how often an owner may rent their STR, often opting for a tiered approach that allows for owner occupied (or a “hosted” rental) to be rented more often, with STRs that are not owner occupied (or “un-hosted” rentals) facing more restrictions. For example, Prince George’s County allows for un-hosted rental unit to be rented for a maximum of 90 days per year, while hosted rental units may be rented for a maximum of 180 days per year.

A handful of other factors were considered as well. For example, some jurisdictions prohibited the use of ADUs for short-term rentals. In Baltimore City, STRs are required to be owner-occupied, unless they were established before 2019 and grandfathered. Prince George’s County and Montgomery County require neighbor notifications and ask the owner to notify adjacent neighbors, civic associations, and the HOA. Parking minimums are also required, with a requirement of one spot per rental contract in Montgomery County or one spot for every three guests in Prince George’s County. Lastly, in Anne Arundel County, an owner may not have more than two STRs in the County.

In recent years, jurisdictions have looked beyond regulating the host or owner of an STR seeking to place requirements on Hosting Platforms like Air B&B, as well. While three of the four jurisdictions did not do so, Anne Arundel County requires Hosting Platforms to collect occupancy taxes and remit them to the County, to confirm that STRs were registered before allowing them to be advertised and requires advertisements to be removed if the license was suspended or revoked.

Processes have also established for suspending or revoking a license. In Montgomery County, an STR owner can have their license suspended if there are at least three verified complaints that become violations. Renewal or reinstatement of licenses must follow procedures established by the Director. Owners may also appeal to the Board of Appeals, and the Board must hold a hearing within 30 days after the notice of appeal has been filed and act on the appeal within 30 days after the hearing.

The chart below summarizes benchmarking from neighboring jurisdictions.

	<b>Baltimore City</b>	<b>Prince George's County</b>	<b>Montgomery County</b>	<b>Anne Arundel County</b>
Date enacted	Dec-2019	Oct-2019	Oct-2017	Feb-2020
Registration Process	\$200 fee, two-year terms. Housing Commission may deny or revoke licenses.	\$150 fee, renewed annually.	\$150, renewed annually	\$400, two-year term
Rental Duration	N/a	No more than 30 consecutive days; no more than 90 days if un-hosted; no	120 days if un-hosted; unlimited if hosted	Not more than 120 consecutive days, but at least 24 hours

		more than 180 days if hosted		
Owner/Agent Proximity	15 miles and be accessible	N/a	15 miles and be accessible	N/a
Notice Requirements	Registration number and contact info	Emergency contact info	Rules, regulations, and emergency contact information	Registration number and emergency contact information
Prohibited Uses	N/a	N/a	N/a	Uses must be consistent with underlying zoning
Property Limitations	May only use STR at permanent residence, unless 2nd property is grandfathered	N/a	Cannot use ADU or farm tenant house	Cannot use ADU, no more than two STRs
Guest Limits	N/a	Limit of 8 renters, and max of 3 per bedroom	6 adults and only 2 adults per bedroom	
Neighbor Notifications	Notify HOA	Notify HOA, Civic Association, and adjoining neighbors	Notify HOA, civic association, and neighbors within 300 feet	
Parking Minimums	N/a	One spot for every three guests	One spot per rental contract	

**Questions for the Office of Law**

The research team posed several legal questions to the Office of Law. Short-term rentals have accumulated a body of case law that must be considered when looking at regulations.

1. **Can the County establish limits on the number of STRs in particular geographic areas or districts?** Yes, an ordinance limiting the number of STRs in particular areas would likely be upheld, provided it includes legislative findings demonstrating a

substantial relation to the public health, safety, or general welfare. Acceptable legislative goals may include preservation of existing housing inventory and promoting the quality of neighborhood life. For an example of a court upholding a city’s right to limit the number of STR licenses available, please see *Short Term Rental Alliance of San Diego v. City of San Diego*, 2023 WL 3964059 (S.D. Cal. 2023).

2. **Can the County treat differently investor-owned properties, versus properties used by the owner as their primary residence?** Yes, an ordinance making such a distinction would likely be upheld, provided that it includes a rational basis for the distinction. For example, in [\*Moskovic v. City of New Buffalo\*](#), 2022 WL 16548948 (W.D. Mich. 2022), the court held that, in regulating STRs, a local government may treat investor-owned properties differently than properties used as the owner’s primary residence. *See id.* at \*19 (“the City had a rational basis for this new policy, which created exceptions to the Moratorium [on STRs] for property owners with ‘investment-backed expectations’ that developed shortly before the Moratorium was implemented”).
3. **Can the County limit the number of days that a single-family dwelling can be rented as an STR?** Very likely, yes. For example, in [\*Nekrilov v. City of Jersey City\*](#), 528 F. Supp. 3d 252 (D.N.J. 2021), the court held that an ordinance limiting short-term rentals to 60 days a year was not an unjust taking. The court reasoned, “plaintiffs retain numerous economic uses of their property, including renting it out as a long-term lease, renting it as a short-term rental for 60 days a year, or occupying it.” *Nekrilov*, 528 F. Supp. 3d at 274.
4. **Can the County limit the total number of STRs licensed throughout the County?** Yes; such a restriction, provided it is supported by adequate legislative justification, would likely be upheld as valid. For an example of a court upholding as legitimate the goal of limiting of the total number of STRs, please see *Nekrilov*, 528 F. Supp. 3d at 281-82, *aff’d*, 45 F.4th 662 (3d Cir. 2022) (finding an ordinance was well-designed to serve the City’s legitimate purpose of limiting the total number of short-term rentals).
5. **How does the County distinguish between the following categories: Bed and Breakfast; Rooming and Boarding houses; hotels and motels; and Accessory Dwelling Units?** County law distinguishes between the listed categories as follows. “Bed-and-Breakfast Inn” is defined in BCZR 101.1. The requirements for a bed-and-breakfast inn are set forth in BCZR § 433. And under County Code § 21-10-101(b), a person shall be licensed annually before they may operate a “sleeping accommodation,” which is defined in § 11-4-401 to include a bed and breakfast.

Under BCZR § 408B.1, boarding or rooming houses are permitted in D.R. Zones, but they are permitted only in single-family detached dwellings.

BCZR 101.1 defines “Hotel or Motel” as “A building or group of buildings containing guest rooms or units, where, for compensation, lodging is provided on a daily, weekly or similar short-term basis. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations on a short-term basis such as an

apartment hotel. A hotel or motel may contain restaurants, meeting rooms, recreation facilities, lounges, retail shops and personal services as ancillary uses.”

Finally, “Accessory Dwelling Unit” is referred to in County law as “Accessory Apartment”, which is defined in BCZR § 101.1 (as amended by CB 7-23), in part, as “A second living quarters within a principal single family detached dwelling or within an accessory building situated on the same lot as the principal single- family detached dwelling and in compliance with Section 400, with dedicated bathing and cooking facilities, and located on owner-occupied property,” subject to certain enumerated conditions. In addition, BCZR § 400.4 (as amended by CB 7-23), contains certain additional requirements, such as specifying the acceptable size of Accessory Apartments.

6. **What enforcement authority would the County have regarding STRs; for example, could the County revoke an STR permit after a certain number of complaints or police calls to an STR?** The County may not automatically revoke a STR permit based solely on a certain number of complaints/police calls regarding an STR. However, an ordinance could provide that, based on a certain number of complaints, the County could request a hearing and seek to establish that violations of the law have in fact occurred. The important point is that, before the County could revoke an STR permit, due process would require proof of *actual* violations, not merely complaints of *alleged* violations. Police reports, often containing nothing more than hearsay reports of members of the public, lack the necessary probative value. *See Aetna Cas. & Sur. Co. v. Kuhl*, 296 Md. 446, 454 (1983) (noting that a police report stating that “a report of crime was made by a member of the public” is not admissible in court because “members of the public . . . are not under a duty in the nature of a business duty, to make an honest and truthful report”). The following are ways to use enforcement authority to regulate STRs:

- Seeking an administrative warrant or subpoena for information from the host platform or property owner.
- Engaging in a sting operation to find non-compliant short-term rentals.
- Utilizing specially designed software to help locate short-term rental property.
- Going door-to-door to investigate complaints indicating the property is a short-term rental.
- Some cities contract with private companies that specialize in finding and enforcing laws against short-term rentals.

7. **Would the County have the authority to evict/remove renters (i.e., weekend warriors)?** No; the right to pursue an eviction belongs to the landlord, not to the County. *See* 14 Md. Law Encyclopedia, Landlord and Tenant § 81. However, the County’s public nuisance law, in § 35-6-110.1, could be amended to make an STR violation under the zoning regulations, by definition, a public nuisance. Specifically, the STR category could be added to § 35-6-110.1(a)(4), which currently provides that “public nuisance” means “any boarding- or rooming house violation under the Baltimore County Zoning Regulations.” In addition, certain violations by an STR tenant would already qualify as a public nuisance. *See* BCC § 35-6-110.1(a)(2) (providing that “public nuisance” means

“any disorderly conduct, disturbance of the peace, or disorderly house violations”; § 35-6-110.1(a)(3) (providing that “public nuisance” means “any controlled dangerous substance abuse violation); and § 35-6-110.1(a)(5) (providing that “public nuisance” means “any alcohol violation”). For public nuisance violations, a Hearing Officer may decline to deny, suspend or revoke a license, in accordance with the requirements of the Code.

## **Recommendations**

Several of these recommendations are on-going, however some would require additional action by the County Council.

### **Continue Implementing Granicus Software and Review of New Short-term Rentals**

As noted, the Department of Permits, Approvals, and Inspections is implementing new software that will track and assist in monitoring short-term rentals. The software will be fully implemented by January 2024. By January 2025, a year’s worth of data will inform future policy and legislation. The short-term rental business is variable based on the season, so having a year’s worth of data is important for accuracy. Any complaints or other issues will be immediately addressed by Code Enforcement.

### **Consider Legislation to Establish Registration Process and Regulations**

Resolution 13-23 requests the Planning Board to consider recommendations for possible legislation, based on best practices in peer jurisdictions, to establish a short-term rental registration system that includes a licensing process and other regulations. The Board should propose a framework for regulating STRs which includes:

- License term and renewal
- Limits on days a short-term rental may be leased
- Limits on the number of guests.
- Parking minimums
- Property limitations, including how many STRs someone may operate.
- Owner or owner agent’s obligation to live nearby
- Having a Trash Plan
- Prohibited uses

Based on policies in peer jurisdictions, the Planning Board should recommend legislation with the following framework:

### **Sample Short-term Rental Regulatory Framework**

Article 35: Buildings and Housing

Title 7: Short-term Rentals

#### **Definitions**

In this Title, the definitions from Section 35-6-101 apply, as well as the following:

1. Short-term Rental: A residential dwelling unit that may be leased for occupancy through a hosting platform in exchange for rent, for a period of no more than 30 consecutive days.
2. Guest: An individual who occupies a short-term rental through a booking transaction.
3. Booking Transaction: A reservation transaction between a host and a prospective guest for a short-term rental.
4. Rent: Charges for services and booking transactions in exchange for occupancy of a short-term rental.
5. Host: The owner of the short-term rental, or the authorized owner's agent.
6. Hosted Unit: A short-term rental where the host resides on the property during the time of the rental.
7. Un-hosted Unit: A short-term rental where the host does not reside on the property.
8. Hosting Platform: An Internet-based entity that facilitates reservations and booking transactions for short-term rentals.

### **Licensing and Registration**

1. The owner of a short-term rental must register with the Department of Permits, Approvals, and Inspections
2. Hosts who operated short-term rentals prior to the passage of this statute shall have 180 days to come into compliance.
3. A Short-term Rental License costs \$60 and may be renewed every three years.
4. The registration application shall
  - a. Provide names and contact info for all persons with ownership of the unit.
  - b. Designate whether the short-term rental is a Hosted Rental or an Un-hosted Rental.
  - c. Disclose whether the property is a single-family detached dwelling, single-family attached dwelling, or single-family semi-detached dwelling.
    - i. Single-family detached dwellings may host up to eight guests but no more than two guests per bedroom.
    - ii. Single-family attached and single-family semi-detached dwellings may host up to four guests but no more than two guests per bedroom.
    - iii. Dwellings or units that have a long-term rental license, such as in an apartment complex, may not host short-term rentals.
    - iv. Accessory Dwelling Units may not be used for short-term rentals.
  - d. Disclose the number of parking spaces shall be designated for guests, with a minimum of one space per two guests.
5. If a short-term rental is served by a septic system, the owner shall disclose this in the application and agree not to host more guests than the maximum capacity of the individual sewage disposal system, as approved by the Department of Environmental Protection and Sustainability.
6. The host shall include Short-term Rental Registration Number in any ad or listing for the property, and display within the dwelling unit that it is registered with the Department.
7. The Host shall retain electronic records of guests for three years and provide to the County upon written request.
8. Host may not rent to a guest if there are overdue taxes or fines to county.
9. An approved registration does not transfer with sale of property



### **Host Requirements and Limitations**

1. The host or a representative of a short-term rental shall be able to respond to concerns within 30 minutes and be onsite within 60 minutes.
2. Un-hosted short-term rental units may be rented for a maximum of 120 days per year.
3. Hosted short-term rental units may be rented for a maximum of 180 days per year.
4. The host may not permit private parties or special events at a short-term rental.
5. Host must ensure use of the property abides by Bill 101-18 – Social Host – Unruly Social Gatherings, per §13-7-134.
6. Host must ensure property complies with waste collection schedule.

### **Suspension or Revocation of a License**

1. Short-term rentals that do not comply with this title may have their license suspended.
2. Owners shall have the right to appeal all decisions to the Administrative Law Judge.