



# **Establishing a Business in Montgomery County: A Review of State and County Requirements**

Kaitlyn Simmons

Kristen Latham

# Establishing a Business in Montgomery County: A Review of State and County Requirements

**OLO Report 2023-8**

**EXECUTIVE SUMMARY**

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Starting and building a new business is a challenging endeavor. There are a multitude of state, local, and municipal government legal and regulatory requirements that a business owner must navigate. As every business is unique (by legal structure, employees, location, industry, etc.), there are significantly different requirements for each type of business. For this report, OLO attempted to identify all licenses, permits, taxes, etc. that a business may have to obtain before establishing a business.

Overall, OLO found it challenging to summarize the processes for establishing a business in the state, County, and municipalities. However, the requirements can be summarized in the following overarching steps:

1. Register the business and establish the legal entity with the Maryland Department of Assessments and Taxation;
2. Obtain a Federal Employer Identification Number from the IRS;
3. Establish tax and insurance accounts with the Maryland Comptroller of the Treasury;
4. Obtain any necessary insurance; and
5. Obtain necessary federal, state, and local permits and licenses.

**OLO would like to emphasize that the steps required to start a business in Maryland are HIGHLY DEPENDENT upon the type of business, business structure, industry, number of employees, and location. There is no one single path for establishing a business. All literature and information OLO identified on starting a business includes the caveat “Please consult a lawyer, accountant, or other business professional” to ensure a business is meeting all legal requirements.**

**Federal Requirements.** Businesses must abide by all federal laws pertaining to operating a business (i.e., Occupational Safety and Health Act, Immigration Reform and Control Act, and the Fair Labor Standards Act). In addition, the federal government may require business licenses for select types of businesses. Some of these include:

- Agriculture
- Alcoholic beverages
- Aviation
- Firearms, ammunition, and explosives
- Fish and wildlife
- Commercial fisheries
- Maritime transportation
- Mining and drilling
- Radio and television broadcasting
- Transportation and logistics

All businesses (except partnerships) must also file an annual income tax return with the federal government (partnerships file an information return).<sup>1</sup>

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<sup>1</sup> Partnerships file an information return to report their income, gains, losses, deductions, credits, etc. A partnership does not pay tax on its income but "passes through" any profits or losses to its partners. [Internal Revenue Services, "About Form 1065, U.S. Return of Partnership Income", Accessed May 23, 2023.](#)

## State Requirements

The state has several regulatory and legal requirements for creating a business, depending on type of business, business structure, industry, number of employees, and location. The Circuit Court License Department primarily issues general licenses for businesses that conduct sales. There are also over 200 industry specific licenses that may be required (such as tree expert license, daycare provider license, or master barber). The following summarizes other laws, taxes, and permits/licenses that may be required, depending upon the business.

### **Select Maryland State Business Taxes**

- Sales and Use Tax License
- Employer’s Withholding Tax Account
- Unemployment Insurance Account
- Admissions and Amusement Tax Account
- Tire Recycling Fee Account
- Transient Vendor License
- Motor Fuel Tax Account
- Alcohol Tax License
- Tobacco Tax License
- Transportation Network Company Assessment

### **Select Business Types that Require a License in the Annotated Code of Maryland**

- Construction
- Garages
- Junk Dealers and Scrap Metal Processors
- Laundries and Dry Cleaners
- Storage Warehouses
- Micro Markets
- Chain Stores
- Traders
- Vending Machines
- Transient Vendors

### **Select State Laws Pertaining to Businesses**

- Wage Payment and Collection Law
- Living Wage Law
- Wage and Hour Law
- Workers’ Compensation Law

### **State Business Taxes**

- Business Income Tax
- Business Real Property Tax
- Admissions and Amusement Tax
- Alcohol Tax
- Boxing and Wrestling Tax
- Motor Fuel Tax
- Sales and Use Tax
- Tobacco Tax
- Digital Advertising Gross Revenues Tax
- Bay Restoration Fund Fee
- Tire Recycling Fee
- Self-Employment Tax

### **Insurance for Businesses**

- Unemployment
- Commercial Automobile
- Property
- Business Interruption/Continuation
- Liability
- Workers’ Compensation

## County Requirements

Montgomery County has several regulatory and legal requirements for creating a business, depending on type of business, business structure, industry, number of employees, and location. The following summarizes laws, taxes, and permits/licenses that may be required, depending upon the business.

### **Montgomery County Required Business Registrations**

- Bed & Breakfast
- Home Occupation (Home-Based Business)
- Motor Vehicle Repair, Maintenance & Towing
- New Home Builder
- Parking Lot
- Pool Management Company
- Radio, Television, and Electrical Appliance Installation and Repair
- Special Events

### **Select Montgomery County Business Permits**

- Agricultural Producer
- Commercial Building
- Major Equestrian Events
- Swimming Pool Operating Permit
- Special Events
- Use & Occupancy

### **Montgomery County Business Operations Laws & Regulations**

- Certified Food Service Manager
- Earned Sick and Safe Leave
- Fair Criminal Record Screening Standards Law (Ban the Box)
- Food Allergen Awareness and Training
- Maryland Minimum Wage and Overtime Law (Montgomery County)
- Taxicabs

### **Select Montgomery County Business Licenses (Over 30 on Website)**

- Alcohol and Beverage
- Enterprise (Entertainment)
- Fire Prevention and Code Compliance
- Food Service Facility
- Rental Housing
- Special Food Events

### **Montgomery County Taxes for Businesses**

- Bag
- Business Personal Property
- Development Impact
- Excise
- Real property tax
- Transfer & Recordation

### **Montgomery County Public Health Laws & Regulations for Businesses**

- Alcohol Enforcement
- Ban on Polystyrene Products
- Domiciliary/Assisted Living Care
- Farmers Market Sampling
- Group Home
- Hospital
- Menu Labeling
- Smoking
- Tobacco Enforcement
- Trans Fat
- Vector Control (Rats)

Municipality Requirements

Municipalities in the County also have specific permits and processes for businesses operating within their jurisdiction. The table summarizes some of the required permits/licenses. Additionally, all three municipalities charge businesses a real and personal property tax, based on the City’s tax rates and the value of the properties.

Municipality	Examples of Licenses/Permits Required
Gaithersburg	Amusement machine; commercial kennel; electrician; home-based business; mobile food vendor; pet shop; and rental property
Rockville	Temporary outdoor dining; plumber and gas fitter; game machine; pool and billiard room; and rental property
Takoma Park	Door to door vendor; outdoor dining; and rental housing

Observations and Discussion Issues

Overall, OLO found that establishing a business in Montgomery County may be challenging due to the variety of state, local, and municipal government legal and regulatory requirements that a business owner must navigate. The following key themes were observed by OLO and identified by stakeholders:

- The regulations and requirements for establishing a business are not clear and the processes can be difficult to navigate. Some types of businesses have very clear, concise, and comprehensive summaries of the steps they must take; however, this is not the case for many types of businesses.
- It is not clear to many businesses whether a requirement is for the state or County and therefore, business owners do not know who to contact when an issue arises. A business owner must navigate multiple websites to determine business requirements.
- A business owner often needs to consult with an expert (i.e., lawyer, accountant) to help navigate requirements and comply with all relevant laws.

To illustrate how different the experience can be based on the type of business, OLO summarizes the process for establishing a business in the County for six different types of businesses in this report. OLO focused on the businesses that represent the greatest number of businesses by type in the most represented industries in the County: (1) a general contracting business; (2) a law firm (single lawyer or with employees); (3) an in-home daycare; (4) a retail store; (5) a hair salon; and (6) a restaurant.

**Discussion Issues.** OLO believes the first step to assisting aspiring business owners is to help businesses clearly outline all requirements, increase outreach on available resources to support potential businesses, and encourage assistance from experts in the business community. OLO has identified the following three questions:

- How can the County Government more effectively communicate what services, resources, and supports are available to those wanting to establish a business? How can the County Government better respond to those seeking information?
- How can the County Government more effectively communicate how to navigate the state, County and municipal requirements to establish a business?
- How can the County Government better connect those looking to establish a business with business support organizations/chambers of commerce/professionals (lawyers, accountants, etc.) in the County? How can the County Government encourage these organizations/experts to provide support and resources to potential business owner

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## **Introduction**

According to the Census Bureau, Montgomery County was home to 27,498 employer establishments and 118,612 non-employer establishments<sup>2</sup> in 2020.<sup>3</sup> More than 95% of businesses located in the County are small businesses, having fewer than 50 employees.<sup>4</sup>

Starting and building a new business is challenging. In addition to the work and finances required, there are a multitude of state, local, and municipal government legal and regulatory requirements that a business owner must navigate. The Council asked OLO for this report to identify any opportunities for streamlining these government license/permit processes for the establishment of businesses.

As every business is unique (by legal structure, employees, location, industry, etc.), there are significantly different requirements for each type of business. Therefore, for this report, OLO attempted to identify all licenses, permits, taxes, etc. that a business may have to obtain before establishing a business. However, OLO was not able to identify overarching processes that apply to all businesses that can be streamlined. For example, while OLO was able to identify very specific streamlining opportunities for a sample business (i.e., an electrician is required to be licensed by the state and the Cities of Gaithersburg and Rockville if the work is done in those municipalities), those same opportunities may not apply to most other types of businesses, based on the location and specific business activities they choose to engage in.

Overall, OLO found it challenging to summarize the processes for establishing a business in the state, County, and municipalities. This report attempts to outline all necessary general steps to establish a business in Montgomery County. Because many businesses require niche licenses/permits, this report is not intended to be a comprehensive guide to starting a business. The report is organized as follows:

- **Chapter 1, Maryland State Requirements** including licenses/permits required, legal regulations, taxes, and insurance;
- **Chapter 2, Montgomery County Requirements** including licenses/permits required, legal regulations, taxes, and insurance, along with any municipal requirements;
- **Chapter 3, Establishing a Business – Examples** summarizes the state, County, and municipal requirements for six sample business types (general contractor, lawyer, home daycare, restaurant, retail store, and personal care establishment); and
- **Chapter 4, Observations and Conclusion/Discussion Issues** outlines observations by representatives from government agencies and business organizations, along with OLO's own observations. The Chapter also includes OLO's suggestions going forward.

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<sup>2</sup> A nonemployer business is one that has no paid employees, has annual business receipts of \$1,000 or more (\$1 or more in the construction industries), and is subject to federal income taxes. Nonemployer businesses are generally small, such as real estate agents and independent contractors.

<sup>3</sup> [U.S. Census Bureau, "Quickfacts: Montgomery County, Maryland", Accessed May 19, 2023.](#)

<sup>4</sup> [Montgomery County Business Center, "Business Resources", Accessed May 19, 2023.](#)

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## **Chapter 1. Maryland State Requirements for Starting a Business**

The State of Maryland has several regulatory and legal requirements for creating a business, depending on what the business is. These requirements can be summarized in the following overarching steps:

1. Register with the state;
2. Obtain Federal ID tax number;
3. Apply for state tax accounts and insurance; and
4. Obtain necessary federal, state, and local permits and licenses.

This chapter summarizes possible Maryland State requirements for business creation in the following categories:

- A. General requirements;
- B. Licenses/Permits;
- C. Legal requirements;
- D. Business taxes; and
- E. Insurance.

Many of the above can be completed through online platforms. OLO identified four separate portals to complete most potential requirements for the creation of a business in the state. These are discussed later in this chapter, when summarizing each of the requirement types.

<b>Portal</b>	<b>Purpose</b>
Maryland Business Express <sup>5</sup>	Registering and establishing a business in Maryland, making annual filings, and requesting document copies.
Maryland OneStop <sup>6</sup>	Applying for state professional/occupational licenses required.
Maryland Combined Registration Online Application <sup>7</sup>	Establishing several Maryland state tax accounts for a business. Can establish income tax withholding and unemployment insurance accounts.
Business License Information System <sup>8</sup>	Obtaining a general business license from the Maryland Circuit Court.

**OLO would like to emphasize that the steps required to start a business in Maryland are HIGHLY DEPENDENT upon the type of business, business structure, industry, number of employees, and location. There is no one single path for establishing a business. All literature and information OLO identified on starting a business includes the caveat “Please consult a lawyer, accountant, or other business professional” to ensure a business is meeting all legal requirements. Therefore, for this chapter, OLO will discuss potential steps that a business may have to take instead of a comprehensive summary of creating a business in the County.**

<sup>5</sup> [Maryland Business Express, Homepage, Accessed May 15, 2023.](#)

<sup>6</sup> [Maryland OneStop, Homepage, Accessed May 15, 2023.](#)

<sup>7</sup> [Comptroller of Maryland, "Interactive Web Services", Accessed May 15, 2023.](#)

<sup>8</sup> [Maryland Judiciary, "Maryland Business Licenses Online", Accessed May 15, 2023.](#)

## **A. General Requirements**

The establishment of a business in Maryland and what is required is highly dependent upon what the business is (i.e., structure and type of business) and where it is located. However, the state does have several basic legal requirements for establishing a business, summarized below. Businesses should complete these steps prior to any requirements from the County in which the business plans to operate.

**Step #1. Register the business and establish the legal entity with the Maryland Department of Assessments and Taxation (Maryland Business Express). This ensures that the business personal property can be properly assessed, and the business can obtain a state or local license if required.**

The minimum information a business is required to submit includes: (1) location; (2) name; and (3) business type and structure. The four most common business types are sole proprietorship, general partnership, limited liability company (LLC), and corporation:

- Sole proprietorships or general partnerships require no legal entry formalities except compliance with state and local licensing and taxation requirements.
- Legal entities such as corporations, limited liability companies, limited partnerships and limited liability partnerships have detailed requirements for creating or forming an LLC in the Maryland LLC Act.<sup>9</sup> One study conducted estimates that mail filing approvals for Maryland LLCs take 7-10 weeks, while online filings take approximately 10 business days.<sup>10</sup>

Fees to register range from \$0 to \$170, depending upon the type of business.<sup>11</sup>

**Step #2. Obtain a Federal Employer Identification Number from the IRS.**

Most businesses are required to register with the IRS to receive a Federal Employer Identification Number (FEIN) (also known as Employer Identification Number/EIN or a Federal Tax ID Number). Businesses need to obtain a FEIN number for the following reasons:

- Paying federal and state taxes;
- Obtaining a Maryland Tax ID Number from the Maryland Comptroller's Office;
- Opening a business bank account; and
- Hiring employees.

Businesses can get their FEIN immediately by completing the online application. There is no fee for obtaining a FEIN.<sup>12</sup>

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<sup>9</sup> Md. Corporations and Associations Article, Limited Liability Company Act, Title 4A

<sup>10</sup> [LLC University, "How long does it take to get an LLC in Maryland?" \(2023\).](#)

<sup>11</sup> [Maryland Business Express, "Fee Schedule", Accessed May 12, 2023.](#)

<sup>12</sup> [IRS EIN Tax ID Number, "2023 Online Application", Accessed May 12, 2023.](#)

**Step #3. Establish tax and insurance accounts with the Maryland Comptroller of the Treasury. Typically, this is done through the filing of the Combined Central Registration.**

Depending upon the type of entity, industry, and activities a business completes, it may need to establish various types of Maryland tax and insurance accounts. Some of the most common tax and insurance accounts are summarized in the table below (and discussed later in the chapter). Businesses can register for most of these tax and insurance accounts through the Maryland Comptroller’s Combined Registration Application, which is available online through the Maryland Business Express website or on paper.<sup>13</sup> Upon approval, the State Department of Assessments and Taxation (SDAT) will issue the business an SDAT Identification Number, which is different than the FEIN number issued by the IRS. It is important to note these are the most common types of insurance, but businesses may require other types of insurance.

**Select Maryland State Business Taxes**

<b>Tax/Insurance Account</b>	<b>Purpose/Summary</b>
Sales and Use Tax License	Business that makes sales and collect sales tax
Employer’s Withholding Tax Account	Business that makes payments to individuals for salaries, wages, or compensation
Unemployment Insurance Account	Business subject to the state unemployment insurance law
Admissions and Amusement Tax Account	Business that charges admission to any place, including motion pictures, athletic events, shows or exhibits (includes entertainment businesses and merchandise, refreshments, or a service sold or served in connection with entertainment)
Tire Recycling Fee Account	Business that sells tires
Transient Vendor License	Business that makes sales at roadside or temporary locations
Motor Fuel Tax Account	Business that sells, uses, or transports any fuels in Maryland
Alcohol Tax License	Business that manufactures, sells, distributes, or stores alcoholic beverages
Tobacco Tax License	Business that sells and/or distributes cigarettes
Transportation Network Company Assessment	Business that operates an Uber, Lyft, or Sidecar business

**B. State Permits and/or Licenses**

The State of Maryland requires many businesses to have permits or licenses to operate. In the state, a general business license is required for most businesses, along with individual occupational and professional licenses for many businesses. When obtaining a license, businesses are often required to

<sup>13</sup> [Comptroller of Maryland, "Interactive Web Services", Accessed May 15, 2023.](#)

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obtain a "Certificate of Status" (generally called a "good standing" certificate) from the Maryland Department of Assessments and Taxation (SDAT).

The Clerk of the Circuit Court is the primary source of determining local licensing requirements. General business licenses are obtained through the Circuit Court's License Department while professional/occupational licenses are available through various state departments or OneStop, the state's permit/license online portal. The Comptroller's License Bureau is responsible for monitoring and enforcing the use of business licenses in Maryland.

**Business Licenses.** The State of Maryland requires most businesses to have a general business license through the Circuit Court. According to Circuit Court staff, the Montgomery County Circuit Court License Department primarily issues licenses for businesses that conduct sales. There is no comprehensive list of businesses that require a license. Circuit Court staff report that a potential business will contact the Circuit Court's License Department to help determine if a business license is required.

To receive a business license from the Circuit Court, a business must first:

- Register the business and establish a legal entity with the State Department of Assessments and Taxation (SDAT);
- Obtain a FEIN number from the IRS; and
- File the combined registration form with the Maryland Comptroller.

A business must then determine whether it needs a business license by contacting the local Circuit Court or applying online through the Business License Information System, an interactive Internet-based program that offers business owners a single information source from which to determine many of the state permits and licenses that may be necessary to operate their businesses.<sup>14</sup> If a business license is required, they must provide the following information:

- Trade Name (Optional if registered);
- Corporation/Owner's Name;
- Type of Business;
- Location address;
- Federal Tax ID or Social Security Number;
- Worker's Compensation Number; and
- Amount of Inventory.

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<sup>14</sup> [Maryland Judiciary, "Maryland Business Licenses Online", Accessed May 15, 2023.](#)

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While there is no complete list of all businesses that legally require a business license issued by the Circuit Court, the table below summarizes several types of businesses identified in the Annotated Code of Maryland that require a license specific to that business type. Of note, the law previously required several types of businesses to obtain a license (e.g., pinball machine, plumbers, gas fitters, etc.), but that requirement was repealed. Further, there are several licenses codified in Maryland law but explicitly do not apply to Montgomery County (peddler's license, promoter of outdoor music festivals, and restaurants).

Circuit Court staff report Montgomery County is the only County in Maryland that still issues a trader's license for restaurants. Montgomery County also is the only County that issues a chain store license for more than one location where sales take place.

**Select Business Types that Require a License in the Annotated Code of Maryland**

<b>Subtitle</b>	<b>Title</b>	<b>Requirement</b>
6	Construction	A person must have a construction license whenever the person does construction business in the state for new homes or commercial construction.
8	Garages	A person must have a garage license whenever the person keeps a garage in the state. "Garage" means a building or part of a building where motor vehicles are stored or parked for a fee.
10	Junk Dealers and Scrap Metal Processors	A person must have a junk dealer or scrap metal processor license whenever the person does business as a junk dealer or scrap metal processor in the state.
11	Laundries and Dry Cleaners	A person must have a license whenever the person does the business of cleaning, dyeing, pressing, or laundering, other than hand laundering, in the state.
12	Storage Warehouses	A person must have a storage warehouse license whenever the person keeps a storage warehouse where goods are stored for a fee in the state.
17	Micro Markets	A person must have a micro market license to operate one or more micro markets in the state. "Micro market" means an unstaffed, self-checkout retail food service facility that is an unstaffed, self-checkout retail foodservice facility that includes one or more micro market displays; has an automated payment kiosk or other device designed to accept electronic payments that the consumer operates; is located indoors and within a separate business; and is generally accessible only to persons within the building in which the foodservice facility is located.
17A	Chain Stores	A person must have a chain store license and a trader's license issued under Subtitle 18 of this title whenever the person operates two or more retail stores under the same general management or ownership in the state.
18	Traders	Except as otherwise provided in this subtitle, a person must have a trader's license whenever the person: (1) does business as a trader in the State; or (2) does business as an exhibitor in the state.
19	Vending Machines	Whenever a person sells goods or offers goods for sale through a vending machine in the State, the person must have a vending machine license that covers that machine.
20A	Transient Vendors	A person must have a license to be a transient vendor. A "transient vendor" means a person who makes sales subject to the sales and use tax in the state from a motor vehicle or from a roadside or temporary location

**Professional Licenses and Permits.** Many industries may also require a license or permit to operate in the State of Maryland (for example daycare, barber, etc.). The state has created an online licensing OneStop portal, which allows users to register for state professional licenses and permits issued by state agencies.<sup>15</sup> OLO identified over 200 permits/licenses on OneStop portal that are issued throughout 40 state agencies and may be required by a business. Several of the required permits are in collaboration with licensing boards (i.e. Board of Dental Examiners, Acupuncturists, etc.). The OneStop portal site displays the description for each license, how long it takes to get approved and the cost range. The following table summarizes the number of licenses/permits available through each state agency.

**Summary of Maryland State Business Licenses Available**

<b>State Department</b>	<b># Licenses Available</b>	<b>Examples</b>
Secretary of State	3	Notary Commission; SOS Charities Initial Registration Form
Office of the State Fire Marshal	3	Installation, Servicing, and Repairing Portable and Non-Water Based Fire Extinguisher Systems; Non-Governmental Electrical Inspector
Maryland State Department of Education	3	Child Care Licensing and Regulation; Educator Certification
Maryland Insurance Administration	2	Insurance Licenses
Maryland Department of Transportation	15	Used Car Dealer License; Commercial Driver’s License; Automotive Dismantler and Recycler License
Maryland Department of Environment	31	Asbestos Contractor License; Incinerator Operator Certification; Masters Certified Emissions Technician
Maryland Cannabis Administration	4	Provider Registration; Ancillary Business Registration
Department of Natural Resources	17	Taxidermist and Fur Planner Permit; Licensed Tree Expert; Application to Import Shellfish from Out of State
Department of Labor	86	Professional Engineers Firm Permit; Master Barber License; Limited Esthetician License; Home Improvement License
Department of Human Services	2	Residential Child Care Program; Child Placement Agency License
Department of Health <sup>16</sup>	30	Board of Dental Examiners; Board of Massage Therapy; Board of Professional Counselors and Therapists
Department of Agriculture	20	Pest Control Registered Technician; Veterinarian License; Poultry Registration; Apiary Registration

<sup>15</sup> [Maryland OneStop, Homepage, Accessed May 15, 2023.](#)

<sup>16</sup> Dept. of Health Issue licenses, inspect and enforce food safety regulations for Food Processing, Warehousing, and Milk/Dairy Facilities.

**Federal Licenses.** Depending on the industry, a business may need to apply for federal licenses or permits. According to the Small Business Administration, the following table summarizes some of the potential required federal business licenses.<sup>17</sup>

**Select Federal Required Business Licenses**

<b>Business activity</b>	<b>Description</b>	<b>Issuing agency</b>
Agriculture	Import or transport animals, animal products, biologics, biotechnology or plants across state lines.	<a href="#">U.S. Department of Agriculture</a>
Alcoholic beverages	Manufacture, wholesale, import, or sell alcoholic beverages at a retail location.	<a href="#">Alcohol and Tobacco Tax and Trade Bureau</a> <a href="#">Local Alcohol Beverage Control Board</a>
Aviation	Operating an aircraft, transporting goods or people via air, or aircraft maintenance.	<a href="#">Federal Aviation Administration</a>
Firearms, ammunition, and explosives	Manufactures, deals, or imports firearms, ammunitions, and explosives.	<a href="#">Bureau of Alcohol, Tobacco, Firearms and Explosives</a>
Fish and wildlife	Engages in any wildlife related activity, including the import or export of wildlife and derivative products.	<a href="#">U.S. Fish and Wildlife Service</a>
Commercial fisheries	Engages in commercial fishing of any kind.	<a href="#">National Oceanic and Atmospheric Administration Fisheries Service</a>
Maritime transportation	Provide ocean transportation or facilitate the shipment of cargo by sea.	<a href="#">Federal Maritime Commission</a>
Mining and drilling	Drilling for natural gas, oil, or other mineral resources on federal lands.	<a href="#">Bureau of Safety and Environmental Enforcement</a>
Radio and television broadcasting	Broadcasts information by radio, television, wire, satellite, or cable.	<a href="#">Federal Communications Commission</a>
Transportation and logistics	Operates an oversize or overweight vehicle.	<a href="#">U.S. Department of Transportation</a>

**C. Legal Requirements**

All businesses in Montgomery County must follow several state laws, particularly regarding labor and employment. The table below presents key employee-related laws that businesses must abide by (if relevant to the business). OLO notes that this is not a comprehensive list because some laws may only apply to specific industries (for example, construction). The Maryland Attorney General has a guide that reviews all relevant laws for the state.<sup>18</sup> The Maryland Department of Labor is the enforcement authority for many of these legal requirements. The Department ensures compliance through inspections, responding to complaints, outreach, and education.

<sup>17</sup> [U.S. Small Business Administration, "Federal Licenses and Permits", Accessed May 11, 2023.](#)

<sup>18</sup> [Maryland Office of the Attorney General and the Department of Commerce, "Guide to Legal Aspects of Doing Business in Maryland, Accessed May 11, 2023.](#)

**Select State Laws Pertaining to Business Operations**

<b>Law</b>	<b>Summary</b>
Wage Payment and Collection Law <sup>19</sup>	Requires employers to pay employees all promised wages, including benefits.
Living Wage Law <sup>20</sup>	Requires that contractors and subcontractors pay each covered employee at least the higher of the state minimum wage or the minimum living wage rate established for the applicable tier area.
Wage and Hour Law <sup>21</sup>	Requires paying at least the statutorily required minimum wage.
Workers' Compensation Law <sup>22</sup>	Requires employers to purchase insurance to pay compensation to employees for work-related injuries, occupational diseases, or deaths, regardless of whether someone is at fault (see discussion of insurance).

It is important to note that businesses must also abide by all federal laws pertaining to operating a business. Many of these federal laws are enforced by state and local authorities. Examples include the Occupational Safety and Health Act, Immigration Reform and Control Act, and the Fair Labor Standards Act.

**D. Business Taxes**

The taxes a business must file and pay depends on the entity type, the industry it operates in, and its business activities. The Maryland Comptroller's Office's Taxpayer Service Division is a business' primary source for determining what tax registrations it needs, accessing appropriate forms, and understanding basic Maryland tax requirements.

Maryland provides one-stop business registration online through the [State Comptroller's website](#). The Comptroller's online [Combined Registration Application](#) (CRA) provides businesses with a single application for most state taxes. The remainder of this section outlines what state taxes businesses may have to file.

**Business Income Tax.** Businesses in Maryland are required to pay income taxes, depending on the type of business.

**Corporation.**<sup>23</sup> Every corporation is required to file an annual income tax return with the state, even if it has no taxable income or the corporation is inactive. The current corporate tax rate is 8.25 percent of the net income allocable to Maryland. Quarterly returns must be filed by the 15th day of the month for each quarterly filing period.

<sup>19</sup> [Maryland Department of Labor, "The Maryland Guide to Wage Payment and Employment Standards", Accessed May 11, 2023.](#)

<sup>20</sup> [Maryland Department of Labor, "Living Wage for State Service Contracts", Accessed May 11, 2023.](#)

<sup>21</sup> ["The Maryland Guide to Wage Payments and Employment Standards"](#)

<sup>22</sup> [Maryland Workers' Compensation Commission, "Maryland Workers' Compensation Law", Accessed May 11, 2023.](#)

<sup>23</sup> [Comptroller of Maryland, "Business Income Tax Information", Accessed May 11, 2023.](#)

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Pass-through Entity.<sup>24</sup> Pass-through entities are required to file Maryland Form 510 (Pass-through Entity Income Tax Return). The following are pass-through entities:

- Partnerships, as defined in § 761 of the Internal Revenue Code.
- Limited Liability Companies (defined under Title 4A-101 of the Corporations and Associations Article of the Maryland Code Annotated) classified as partnerships, as defined in § 761 of the Internal Revenue Code, and not taxed as a corporation or disregarded as an entity.
- S corporations, as defined in § 1361 AND 1362 of the Internal Revenue Code.
- Business trusts, as defined in Maryland Corporation and Associations Article, Section 12-101.

Businesses must file Form 510 four times per year (dates depend upon business structure) and the current tax rates are as follows:

- For nonresident members that are individuals or nonresident fiduciaries, the tax is 5.75% in addition to the special nonresident tax of 2.25% of the nonresident member's distributive or pro rata share of income.
- For nonresident entity members, the tax is 8.25% of the nonresident member's distributive or pro rata share of income.

**Business Property Tax.** The Maryland Department of Assessments and Taxation values real and personal property owned by businesses, and then certifies those assessments to local governments. Some Maryland counties and towns collect real and personal property tax based on those values (including Montgomery County, discussed in the next chapter). Businesses are automatically registered to pay these taxes when they file their Articles of Organization or Incorporation with the state.

The MDAT automatically registers corporations, limited liability companies, limited partnerships, and limited liability partnerships for these taxes when these legal entities form. All other businesses (sole proprietorships, general partnerships) that own or lease personal property or need a business license are required to obtain an SDAT identification number and file an annual personal property return. In general, real and personal property taxes are required by the County and municipalities, while the State of Maryland only charges real property taxes.

Personal Property. The State of Maryland does not impose a state personal property tax on businesses.

Real Property. The state does impose a real property tax on businesses – it has been set at \$0.112 per \$100 of assessed value for many years.<sup>25</sup> If a business owns the land and/or building it operates on, it is responsible for the real property taxes. If the building is leased, the commercial property owners will often include property taxes along with other common charges (i.e., the Common Area Maintenance/CAM charges) with a lease. Since property taxes pass through from property owners to business owners who are leasing via the CAM, businesses do pay both state and County real property taxes.

Annual Report and Personal Property Tax Return. All businesses formed, qualified, or registered to do business in Maryland must file an Annual Report, also known as a Personal Property Tax Return Report. The Annual Report is required regardless of whether the business owns property, generates income, or has conducted business activity in Maryland during the preceding year. There are different forms for various types of

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<sup>24</sup> [Maryland Taxes, "Maryland Form 510: Pass-Through Entity Income Tax Return" \(2015\).](#)

<sup>25</sup> [Montgomery County Government, "Montgomery County, MD 2022 Levy Year Real Property Tax Rate Schedule" \(2022\).](#)

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businesses, but all forms include information on the business's activities during the prior year. All Annual Reports and Personal Property Tax Returns are due by April 15 each year and the fee to file this report ranges from \$0 to \$300.

Starting in 2023, if the business owns, leases, or uses personal property located in Maryland with a total original cost of \$20,000 or more, it must also file a Personal Property Tax Return.

**Other Taxes.** Maryland may require many other taxes, depending on the type of business. The following table summarizes these potential taxes.<sup>26</sup> Of note, businesses are also required to collect [Payroll \(Income\) Employee Withholding](#) – businesses must withhold income taxes from employees and submit a report to the Comptroller of Maryland.

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<sup>26</sup> [Comptroller of Maryland, "Information for Business Taxpayers", Accessed May 20, 2023.](#)

**Select State Business Taxes**

<b>Tax</b>	<b>Description</b>	<b>Due Date</b>
Admissions and Amusement Tax	Tax on the gross receipts from admissions; the use or rental of recreational or sports equipment; and the sale of merchandise, refreshments or services at a nightclub or similar place where entertainment is provided.	The due date for regular admissions and amusement tax returns is printed on the face of the return.
<a href="#">Alcohol Tax</a>	Excise tax on all wine (\$0.40 per gallon), beer (\$0.09 per gallon) and liquor (\$1.50 per gallon) sold in Maryland. Alcohol also requires a 9% sales tax.	Alcohol reports are due the 10th day of the month following the month the business is reporting.
<a href="#">Boxing and Wrestling Tax</a>	Tax on gross receipts derived from charges for admission to a boxing or wrestling contest in the state; and charges to view a telecast of a boxing or wrestling contest in the state regardless of the origin of the telecast.	Due by the 10th day of the month following the month in which the event occurred.
<a href="#">Motor Fuel Tax</a>	Taxes levied on gasoline and diesel fuel.	Must file quarterly fuel use tax reports.
<a href="#">Sales and Use Tax</a>	Businesses in Maryland are required to collect Maryland's Sales Tax on taxable purchases.	Required to file and remit sales tax either monthly, quarterly, semiannually or annually depending upon the filing frequency assigned by Maryland. Returns due the 20th day of the month following the reporting period.
Tobacco Tax	Tax imposed on tobacco products.	Due annually, typically in June.
<a href="#">Digital Advertising Gross Revenues Tax</a>	Persons with global annual gross revenues equal to or greater than \$100,000,000 must pay a tax on the portion of those revenues derived from digital advertising services in the State of Maryland.	Returns must be filed by the 15th day of the month for the appropriate quarterly filing period.
<a href="#">Bay Restoration Fund Fee</a>	The fees are levied on users of wastewater facilities, onsite sewage disposal systems and holding tanks located in Maryland or qualify by serving Maryland users.	Due on or before the 20th day of the month that follows the calendar quarter in which the fee is collected.
<a href="#">Tire Recycling Fee</a>	Levied on those who sell tires - each new tire sold in Maryland (\$.80 on each new tire).	Can be paid on a monthly or semi-annual basis.

Maryland also requires a Self-Employment Tax for businesses that, according to the IRS:

- Carry on a trade or business as a sole proprietor or an independent contractor;
- Are a member of a partnership that carries on a trade or business; or
- Are otherwise in business for oneself (including a part-time business).

This tax is dependent on earnings from the business during the financial year and the taxes are for Social Security and Medicare from self-employed individuals. The self-employment tax rate for 2022-2023 in Maryland is 15.3%.

**Federal Business Taxes.** All businesses except partnerships must also file an annual income tax return with the Federal Government (partnerships file an information return<sup>27</sup>).

## **E. Insurance Requirements**

Some businesses are required to have insurance for a variety of purposes depending on the type of business and industry. The State of Maryland does not directly require any business to have insurance; however, insurance may be required to obtain a business license from a state licensing board. For example, a contractor must have proof of liability insurance to obtain a contractor's license.

The Maryland Insurance Administration's "A Business Owners Guide to Commercial Insurance"<sup>28</sup> is a good starting point for a business to determine what insurance they require. However, OLO found that all state websites specify that a business should contact an attorney, accountant, insurance carrier, or other business professional to ensure legal compliance with insurance requirements.

The types of insurance business owners must purchase depends on the size and type of the business or industry, and the amount of coverage desired (and may include home-based businesses). The following table presents examples of insurance that businesses may be required to obtain. Several types of insurance, while not required, may be recommended for certain types of businesses.

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<sup>27</sup> Partnerships file an information return to report their income, gains, losses, deductions, credits, etc. A partnership does not pay tax on its income but "passes through" any profits or losses to its partners. [Internal Revenue Services, "About Form 1065, U.S. Return of Partnership Income", Accessed May 23, 2023.](#)

<sup>28</sup> [Maryland Insurance Administration, "A Business Owner's Guide to Commercial Insurance", Accessed May 23, 2023.](#)

**Select Insurance Requirements for Businesses**

<b>Insurance Type</b>	<b>Description</b>
Unemployment Insurance	Insurance that pays money to individuals on a weekly basis when they lose their job and meet certain eligibility requirements. Businesses with covered employees are required to have unemployment insurance.
Commercial Automobile Insurance	All motorized vehicles registered in Maryland used for business purposes, are required to carry automobile liability insurance.
Property Insurance	Property insurance protects losses from damage to business property.
Business Interruption/Continuation Insurance	Business interruption insurance provides coverage for expenses associated with running a business, such as payroll and utility bills, when the business is unable to operate for an extended period because of a fire or other type of loss.
Liability Insurance	Liability insurance, also called Commercial General Liability (CGL) insurance, protects business against the economic loss and expense associated with claims filed against your business.
Worker's Compensation Insurance	Worker's compensation insurance policy protects a business from claims by employees who experience a work-related injury, illness, or disease.

Though not required, businesses can also provide several types of insurance for its employees, such as:

- **Health insurance** – insurance that covers a portion of the cost of a policyholder's medical costs;
- **Group disability insurance** – coverage that protects employees if they become disabled and are unable to work either short-term (less than six months) or long-term (longer than six months); and
- **Life insurance** – pays a death benefit if the policyholder passes away within a specified period.

## **Chapter 2. Montgomery County Requirements for Establishing a Business**

This chapter outlines the County requirements to start a business, including specific municipality requirements. It is organized by the following categories:

- A. An overview of the major steps to start a business;
- B. Licenses and permits needed to operate a business;
- C. Legal regulations that pertain to businesses;
- D. Taxes that pertain to businesses; and
- E. Insurance requirements.

**As in the previous chapter, OLO would like to emphasize that the steps required to start a business in Montgomery County are HIGHLY DEPENDENT upon the type of business, business structure, industry, number of employees, and location. There is no one single path for establishing a business. Therefore, in this chapter, OLO discusses potential steps that a business may have to take but does not provide a comprehensive summary of creating a business in the County. All literature and/or information OLO found on starting a business includes the caveat “Please consult a lawyer, accountant, or other business professional” to ensure a business is meeting all legal requirements.**

### **A. Major Steps to Starting a Business**

The Montgomery County Business Center, housed in the Executive Branch, is the primary resource to help businesses navigate licensing, permitting, procurement, and other processes, both in the County and state.<sup>29</sup> The Business Center offers technical assistance and resources to prospective and existing business owners and provides contact with County-funded resource partners that provide no-cost business consulting services.<sup>30</sup> More specifically, the Business Center provides an overview of the requirements to start a business in the County, including a “Before Starting a Business Checklist,” which includes the following steps:

1. Think about a business idea and do market research;
2. Choose a business structure;
3. Find out if a business license or permit is needed;
4. Review laws and regulations relevant to the business;
5. Create a business plan;
6. Calculate startup costs;
7. Research financial resources that might be available to support the business; and
8. Identify possible locations to operate the business.<sup>31</sup>

The Guide then outlines the following steps, which are primarily required by the state, and are explained in more detail in the previous chapter:

- Register the business in Maryland;
- Apply for a Federal Employer Identification Number (FEIN) through the IRS website;

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<sup>29</sup> [Montgomery County Business Center, "Contact Us", Accessed May 23, 2023.](#)

<sup>30</sup> [Montgomery County Business Center, "Guide to Starting a Business", Accessed May 23, 2023.](#)

<sup>31</sup> Montgomery County Economic Development Corporation has a tool for selecting a business site available on their website at [Montgomery County Economic Development Corporation, "Site Selection", Accessed May 23, 2023.](#)

- Apply for Maryland tax accounts using “Combined Registration” form;
- Obtain any state and County licenses, permits, and registrations required;
- Open a business bank account; and
- Purchase business insurance.

## **B. Required Licenses and Permits**

A business may require a County license, permit, or registration to operate in Montgomery County in addition to any state required licenses and/or permits. In the County, licenses and permits are issued by different departments and offices depending on the type of business or activity. Prospective business owners frequently must work with multiple County departments to obtain needed licenses, permits, and registrations. Furthermore, certain business activities might require both a County license and registration. This section summarizes the available licenses, permits, and registrations that may be required for a business to operate in the County.

**Business Licenses.** The following is a list of licenses required for various business activities in Montgomery County. While there are 30 licenses listed on the County website, this list details the most common business licenses.<sup>32</sup>

### **Select Montgomery County Business Licenses**

<b>License</b>	<b>Description</b>	<b>Department</b>
<a href="#">Alcohol and Beverage</a>	Required for the sale of alcohol (i.e., restaurants, stores, hotels, catering, one day special events, and festivals).	Alcohol and Beverage Services
<a href="#">Enterprise (Entertainment)</a>	Required for brick-and-mortar entertainment businesses like amusement parks, theaters, dance halls, carnivals, miniature golf courses, driving ranges, or pony rings.	Health and Human Services
<a href="#">Fire Prevention and Code Compliance</a>	Required for contractors to perform fire protection systems work in Montgomery County. Licenses include Corporate and Individual Fire Alarm, Sprinkler, and Fire Extinguisher Technician.	Permitting Services
<a href="#">Food Service Facility</a>	Required for restaurants, coffee shops, cafeterias, cafés, soda fountains, retail markets, and food operations in corporate settings.	Health and Human Services
<a href="#">Rental Housing</a>	Required for property owners before a property is advertised for rent or rented.	Housing and Community Affairs
<a href="#">Special Food Events</a>	Required for mobile, permanent, or temporary structures used to prepare, serve, or sell food or drink for less than 30 days.	Health and Human Services

<sup>32</sup> All available licenses are listed at [Montgomery County Business Center, "Business Licenses, Permits, and Registrations"](#). Accessed May 24, 2023.

**Business Permits.** The following is a list of business permits and certificates that are required for certain business activities in Montgomery County, and that may be the most relevant to establishing a business in the County.<sup>33</sup>

**Select Montgomery County Business Permits**

<b>Permit/Certificate</b>	<b>Description</b>	<b>Department</b>
<a href="#">Agricultural Producer</a>	Required for any person looking to sell fruits and vegetables as an agricultural producer.	Permitting Services
<a href="#">Commercial Building</a>	Required for the construction of commercial buildings. Permits may include adding or altering the interior, demolition, or installing fences.	Permitting Services
<a href="#">Major Equestrian Events</a>	Required for a competition, exhibition, or other display of equestrian skills.	Permitting Services
<a href="#">Swimming Pool Operating Permit</a>	Required for any business planning to operate a swimming pool.	Health and Human Services
<a href="#">Special Events</a>	Required for activities open to the public and conducted and operated by an organization within Montgomery County (e.g., carnivals, fairs, concerts, festivals, firework displays, athletic or recreation tournaments). Specific permits might include a One-Day/Festival License for serving or selling alcohol or a Temporary Noise Waiver if the event will create a lot of noise.	Alcohol & Beverage Services, Environmental Protection, Health and Human Services, Permitting Services, Transportation
<a href="#">Use &amp; Occupancy</a>	Required for businesses that have physical locations.	Permitting Services

**Business Registration.** Most businesses operating in the County must register with the County, the State of Maryland, or both. County staff note that a business only needs to register with the County if it requires a specific license or certificate that the County oversees (e.g., a food license). The County does not have a general business registration or license. The following is a list of County registrations required for specific business types.

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<sup>33</sup> Full list available at "[Business Licenses, Permits, and Registrations](#)"

**Montgomery County Required Business Registrations**

<b>County Registration</b>	<b>Required for</b>	<b>Department</b>
<a href="#">Bed &amp; Breakfast</a>	A detached house that is owner-occupied with no more than five guest rooms for rent and customarily serves breakfast to guests. Bed and Breakfasts must also obtain a <a href="#">Transient Lodging (Hotels and Bed &amp; Breakfast) license</a> .	Health and Human Services
<a href="#">Home Occupation (Home Based Business)</a>	Homeowners that operate a home-based business which generates more than five visits per week, or who has a non-resident employee.	Permitting Services
<a href="#">Motor Vehicle Repair, Maintenance &amp; Towing</a>	Merchants engaged in motor vehicle repair or towing.	Office of Consumer Protection
<a href="#">New Home Builder</a>	Builders (as defined by County Code § 31C) who construct new homes, condominium units contained within a building of four stories or less, or act in the capacity of a general contractor for such building.	Office of Consumer Protection
<a href="#">Parking Lot</a>	Commercial parking lots.	Office of Consumer Protection
<a href="#">Pool Management Company</a>	Pool management companies.	Health and Human Services
<a href="#">Radio, Television, and Electrical Appliance Installation and Repair</a>	Any person, firm, or corporation that engages in the business, occupation, profession, or trade of installing, repairing, or maintaining radio and television equipment or electrical appliances.	Office of Consumer Protection
<a href="#">Special Events</a>	Any event that involves street closure or impacts County services or entities.	Transportation

Further, some municipalities in the County have specific permits and processes for businesses operating within their jurisdiction. For example, Takoma Park requires a permit for restaurants with outdoor dining, as Takoma Park manages the public right of way.<sup>34</sup> Businesses that are considering operating within a certain municipality should check with the local economic development entity to ensure compliance with all requirements. The following table summarizes the licenses and/or permits that may be necessary for businesses to operate in three County municipalities.

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<sup>34</sup> Feedback from County Staff

**Municipality Specific Licenses and Permits**

<b>Municipality</b>	<b>Local Economic Development Entity</b>	<b>Examples of Licenses/Permits Required</b>
Gaithersburg	Gaithersburg Economic Development <sup>35</sup>	Amusement machine; commercial kennel; electrician; home-based business; mobile food vendor; pet shop; and rental property
Rockville	Rockville Economic Development <sup>36</sup>	Temporary outdoor dining; plumber and gas fitter; game machine; pool and billiard room; and rental property
Takoma Park	Takoma Park Economic Development <sup>37</sup>	Door to door vendor; outdoor dining; and rental housing

**C. Legal Regulations**

Five general categories of laws and regulations apply to businesses in Montgomery County:

- Environmental Laws and Regulations;
- Food and Beverage Establishments and Public Health Laws and Regulations;
- Business Operations Laws and Regulations; and
- Parking Requirements.

This section presents the primary regulations associated with each of the five categories of laws and regulations that businesses may have to observe in order to operate in the County (if applicable to the type of business/structure of business).

**Environmental Laws and Regulations.** Montgomery County has several laws and regulations designed to improve the environment through a focus on energy conservation and protecting natural resources. The following table summarizes these laws.

<sup>35</sup> [Gaithersburg Economic Development Homepage, Accessed May 24, 2023.](#)

<sup>36</sup> [Takoma Park Economic Development Homepage, Accessed May 24, 2023.](#)

<sup>37</sup> [Rockville Economic Development, Inc. Homepage, Accessed May 24, 2023.](#)

**Montgomery County Environmental Laws and Regulations for Businesses**

<b>Law</b>	<b>Description</b>
<a href="#"><u>Commercial Building Energy Benchmarking</u></a>	Requires building owners to benchmark the energy use of nonresidential buildings in the County that are 50,000 square feet and greater.
<a href="#"><u>DEP Development Review Process</u></a>	Requires a property owner, developer, or builder to demonstrate that each building requiring sanitary service will have both an adequate fresh water supply and a wastewater disposal system.
<a href="#"><u>Special Protection Areas</u></a>	Requires development within special protection areas to adhere to strict requirements to reduce threats to resources and features of these areas.
<a href="#"><u>Stormwater Management Concept</u></a>	A stormwater management (SWM) concept typically includes a drawing and narrative which describes the manner in which stormwater runoff from a proposed development will be controlled.

**Public Health Laws & Regulations.** The County develops and enforces regulations related to businesses engaged in public health – including providing food/beverages and health care services. The following table summarizes these regulations.

**Montgomery County Public Health Laws & Regulations for Businesses**

<b>Law</b>	<b>Description</b>
<a href="#"><u>Alcohol Enforcement</u></a>	Ensures businesses with alcohol licenses are following all relevant laws and regulations.
<a href="#"><u>Ban on Polystyrene Products</u></a>	Limits the use and sale of certain polystyrene products in Montgomery County and requires the use of either recyclable or compostable food service products when serving or providing food for on- or off-site consumption.
<a href="#"><u>Domiciliary/Assisted Living Care</u></a>	Ensures the protection of the public health and quality of care through a program of inspection and investigation of licensed health care facilities.
<a href="#"><u>Farmers Market Sampling</u></a>	Provides guidelines for vendors selling food products at Farmers Markets.
<a href="#"><u>Group Home</u></a>	Outlines regulations related to the licensing of group homes.
<a href="#"><u>Hospital</u></a>	Outlines regulations related to the licensing of hospitals.
<a href="#"><u>Menu Labeling</u></a>	Requires chain eating and drinking establishments (with at least 20 locations nationally), to post the calories of each standardized menu item on the menu or menu board and provide additional written nutrition information to a consumer upon request.
<a href="#"><u>Smoking</u></a>	Outlines regulations associated with smoking.
<a href="#"><u>Tobacco Enforcement</u></a>	Requires compliance with Montgomery County's Distribution of Tobacco Products to Minors and Tobacco Products Placement laws.
<a href="#"><u>Trans Fat</u></a>	Outlines the County's regulations on the use of artificial trans-fat by eating and drinking establishments.
<a href="#"><u>Vector Control (Rats)</u></a>	Outlines the regulations associated with the elimination and control of rats.

**Business Operations Laws & Regulations.** The following County regulations regulate business activities, such as laws pertaining to businesses with employees.

**Montgomery County Business Operations Laws & Regulations**

<b>Law</b>	<b>Description</b>
<a href="#"><u>Certified Food Service Manager</u></a>	Requires that a food service licensee must not operate a food service facility unless the facility is under the immediate control of a Certified Food Service Manager.
<a href="#"><u>Earned Sick and Safe Leave</u></a>	Requires most employers in Montgomery County to provide paid time off that can be used for purposes defined by law.
<a href="#"><u>Fair Criminal Record Screening Standards Law (Ban the Box)</u></a>	Restricts certain employers during the application process can inquire about someone’s criminal history.
<a href="#"><u>Food Allergen Awareness and Training</u></a>	Requires that all eating and drinking establishments required to be under the immediate control of a certified food service manager have an employee who has passed the food allergen awareness test on the premises at all times when food is being prepared or served.
<a href="#"><u>Maryland Minimum Wage and Overtime Law (Montgomery County)</u></a>	Requires certain employers in Montgomery County to pay a set minimum wage.
<a href="#"><u>Taxicabs</u></a>	Regulates and licenses Montgomery County taxicab services.

**Parking Requirements.** Section 59E of the Montgomery County Zoning Code outlines the minimum number of off-street parking spaces a business must provide. The requirements are dependent on the type of business, location, and building structure. Some examples include:

- *Retail Store* - five parking spaces for each 1,000 gross leasable square feet.
- *Restaurant* - twenty-five parking spaces for each 1,000 square feet of floor area devoted to patron use within the establishment and 15 parking spaces for each 1,000 square feet of ground area devoted to patron use on the property outside the establishment.

Additionally, employers with 25 or more full- or part-time employees in a transportation management district are required to develop a Traffic Mitigation Plan (TMP), participate in an annual commuter survey, and submit an annual report of activities to the Montgomery County Department of Transportation.<sup>38</sup>

#### **D. Taxes**

Similar to state tax requirements discussed in the previous chapter, the type of County taxes a business must file is dependent upon the type of business. The County's online guide to starting a business suggests that filing and paying taxes can be complicated for a business, and it is important to consult with both an attorney and a certified public accountant to make sure all tax obligations are being met.<sup>39</sup> There are two main categories of County taxes for most businesses:

- **Real property tax** – a tax imposed on homes, buildings, land, or any other fixed or immovable structures or property; and
- **Personal property tax** – a tax imposed on the value of personal property that is moveable, such as vehicles, equipment, or furnishings.

In Montgomery County, there is a general County tax levied for both real property and personal property taxes.<sup>40</sup> For real property tax, County staff report that commercial property owners are responsible for the tax and will often include property taxes, along with other similar charges, in the Common Area Maintenance (CAM) charges that are part of a business' lease. The CAM is a prorated share of the square footage for the lease based on the total rentable area of the property. Personal property taxes are paid by the business, whether they are the building owners or not.

In addition, Executive staff notes that business owners that live in Montgomery County and register as pass-through entities may be required to pay the County's local income tax depending on how they file with the State of Maryland. There are additional taxes that a business in the County may have to pay, depending on what type of business it is. The following table summarizes these potential taxes.

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<sup>38</sup> [Montgomery County Department of Transportation, "Traffic Migration Plan and Annual Report Filing System", Accessed May 25, 2023.](#)

<sup>39</sup> [Montgomery County Business Center, "Taxes", Accessed May 25, 2023.](#)

<sup>40</sup> Executive staff notes the County issues a consolidated property tax bill for both real and personal property to all property owners in the County. This consolidated bill lists all relevant State, County, and municipal property taxes for the property owner. Staff notes this streamlines the property tax payments for businesses as businesses pay one bill, and the State, County, and municipalities address the different payments administratively without the business owner needing to be concerned with paying taxes to all three entities.

**Montgomery County Taxes for Businesses**

<b>Tax</b>	<b>Description</b>	<b>Department</b>
<a href="#">Bag</a>	All businesses in Montgomery County that provide customers a plastic or paper carryout bag at the point of sale must charge five cents per bag.	Environmental Protection
<a href="#">Business Personal Property</a>	A Business Personal Property Tax bill is issued after a business tax return has been reviewed by the state. Businesses are automatically registered to pay these taxes when they are formed. The minimum fee to file a Business Personal Property Tax is \$300 per year and is due by April 15.	Finance
<a href="#">Development Impact</a>	Development Impact Taxes are paid by construction firms on new residential and commercial buildings in the County. It helps fund improvements necessary to support infrastructure created by development and is due before a building permit is issued.	Permitting Services
<a href="#">Excise</a>	Excise Taxes are imposed on the manufacture and distribution of certain consumer goods in the County. Examples include electronic cigarette tax, fuel energy tax, room rental (transient) tax, and telephone tax.	Finance
<a href="#">Transfer &amp; Recordation</a>	Taxes paid on the transfer of a property (e.g., the sale of a property) or mortgage refinancing.	Finance

Several municipalities in the County require additional taxes for businesses established in their jurisdiction, summarized in the table below. Certain manufacturing and technology-related businesses and those located in certain designated areas in the County may be eligible for tax credits or exemptions in these municipalities.

**Municipalities that Levy Specific Taxes for Businesses**

<b>Municipality</b>	<b>Description</b>
<a href="#">City of Gaithersburg</a>	Charges businesses a real and personal property tax, based on the City's tax rates and the value of the properties.
<a href="#">City of Rockville</a>	Charges businesses a real and personal property tax, based on the City's tax rates and the value of the properties.
<a href="#">City of Takoma Park</a>	Charges businesses a real and personal property tax, based on the City's tax rates and the value of the properties.

**E. Insurance**

As stated in the previous chapter, the State of Maryland does not require business owners to purchase any insurance. However, some professional licenses and permits require that business owners show proof of insurance before approval of applications. Like the state, the County may require proof of different types of insurance depending on the type of business and the associated licenses/permits.

However, the County's guide to starting a business highlights the following types of insurance as either legally required for certain licenses or permits and/or important to obtain:

- **Worker's Compensation** - protects a business and its owner(s) from claims by employees who suffer a work-related injury, illness, or disease. Maryland, like all states, requires businesses to carry workers' compensation insurance for their employees.
- **Business Interruption** - provides coverage for expenses associated with running a business, such as payroll and utility bills, when the business is unable to operate for an extended period of time because of a fire, or other type of loss as specified in the policy.

### **Chapter 3. Establishment of Businesses – Examples**

As established in the previous chapters, there is no universal process for a business in Montgomery County to follow to ensure it fulfills all necessary state and County licensing and permitting requirements. Businesses must navigate multiple state and County departments, each with its own licensing, registration, and permitting requirements. Furthermore, the process can vary dramatically by business type and structure.

To illustrate how different the experience can be based on the type of business, this chapter summarizes the process for establishing a business in the County for six different types of businesses: (1) a general contracting business; (2) a law firm (single lawyer or with employees); (3) an in-home daycare; (4) a retail store; (5) a hair salon; and (6) a restaurant. These businesses were selected because they represent the greatest number of businesses by type in each of the most represented industries in the County.

For each example, OLO details the type of business in each category, with assumptions that impact the process of starting a business (such as size, products sold, etc.). OLO notes that as every business is different, this example should be taken as an illustration of the complexity of starting a business, rather than a “how-to” guide.

***NOTE: These examples are not intended to be a comprehensive guide and should not be used as the only reference when starting a business. OLO attempted to identify all necessary licenses, permits, taxes and other requirements for establishing a business in Maryland and Montgomery County; however, OLO acknowledges there may be some obligations for a specific business activity not listed. OLO concurs with all state and County business resources that is it necessary to consult with an attorney, accountant, or other business consultant to ensure full compliance with all requirements.***

While specific sources for each type of business is included in the summary, the following general sources were used across all examples:

- <https://businessexpress.maryland.gov/start/register-a-business-in-maryland>
- <https://www.marylandtaxes.gov/business/new-business/>
- [https://jportal.mdcourts.gov/license/index\\_disclaimer.jsp](https://jportal.mdcourts.gov/license/index_disclaimer.jsp)
- <https://www.dllr.state.md.us/license/>
- <https://onestop.md.gov/>
- <https://www.montgomerycountymd.gov/business/>

**General Contractor – Residential and Existing Structures**

The Maryland Home Improvement Commission (MHIC), which is the lead agency for contractor regulation in the state, defines “home improvement work” as:

*“Home improvement work includes alteration, remodeling, repair or replacement of a building or part of a building used as a residence. Home improvement also includes work done on individual condominium units. Home improvement does not include work done on commonly owned areas of condominiums or buildings that contain four or more single-family units.”*

This example summarizes the establishment of a general contracting business that provides home improvement services as defined above. These businesses may or may not have employees. **It is important to note that contractors working on new construction or commercial construction have different licensing requirements. This example is only looking at general contractors who work on existing residential structures and complete “home improvements.”**

Step	Required?
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Insurance Requirements	<p>To obtain or renew a contractor’s license in the State of Maryland, a business must have \$50,000 liability insurance.</p> <p>If the business has one or more automobiles, it must have commercial auto insurance.</p> <p>If the business has one or more employees, it must have worker’s compensation insurance.</p>
Maryland Tax Accounts	<p>Depending on the business structured established, businesses may have to pay the following taxes:</p> <ul style="list-style-type: none"> <li>• Income tax for all types of structures;</li> <li>• Self-employment tax if the owner is considered self-employed by the IRS;</li> <li>• Employee withholding tax if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul>

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<p>State Licenses/Permits</p>	<p>A business must have a state construction license whenever construction is completed in the state. The primary license is issued by the Maryland Home Improvement Commission (MHIC) – the Home Improvement License covers all home improvement services performed on homes and apartment buildings that contain three or fewer units. Currently, there is an application fee of \$370 (plus \$63 for the licensing exam) and license renewals cost \$250 and are required every two years. See below for more details.</p> <p>Circuit Court staff report that they only issue construction licenses for commercial construction. All home builders who build new homes in Maryland must be registered with the Home Builder Registration Unit of the Attorney General’s Office.</p> <p>In addition, if the contractor plans to do specialized work, several state licenses might be required:</p> <ul style="list-style-type: none"> <li>• To operate an electrical contracting business, contractors are required to hold a master’s electrical license.</li> <li>• Plumbing contractors are required to hold a journeyman or master plumber’s license.</li> <li>• To perform Heating, Ventilation, Air Conditioning, and Refrigeration (HVACR) work, a person must get a HVACR license.</li> <li>• For renovations performed in pre-1978, the EPA requires anyone performing renovation, repair or painting projects that disturb lead-based paint to obtain an EPA certification and follow-lead safe work practices.</li> </ul>
<p>County Tax Accounts</p>	<p>The business must pay both real and personal property taxes to the County.</p>
<p>County Licenses/Permits</p>	<p>There is no County license required for a contractor performing home improvements. If the contractor is constructing any type of new residence, the business must have a Montgomery County Building Contractor’s License.</p>

The application process to secure a Maryland Home Improvement Contractor's License is extensive. Applicants must provide proof of the following:

- The trade name is available for use with the Commission and registered with SDAT;
- Two years of experience in home improvement work, construction and/or related education;
- The passing of a state licensing exam;
- Financial solvency/net worth based on the scope and size of the business including real estate assets, bank statements and credit reports. If the business cannot provide these, it can purchase a surety bond;
- A Certificate of Good Standing (if the business is a corporation);
- Purchase of \$50,000 of contractor’s liability insurance; and
- A copy of conviction records.

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In addition to the above, the Cities of Gaithersburg and Rockville have additional requirements:

- Gaithersburg requires a business doing electrical work on a building they do not own to register with the City.
- Rockville requires that electricians and plumbers/gas fitters be licensed by the City.

### **Sources:**

<https://fullertonlaw.com/newsletters-published/maryland-contractor-licenses>

<https://www.gaithersburgmd.gov/services/licensing>

<https://www.rockvillemd.gov/257/Licenses>

<https://www.montgomerycountymd.gov/DPS/professionals/prof-contractors.html>

[https://www.montgomerycountymd.gov/ocp/licensing/builder\\_main.html](https://www.montgomerycountymd.gov/ocp/licensing/builder_main.html)

<https://www.dllr.state.md.us/license/mhic/mhiclicreq.shtml>

<https://www.dllr.state.md.us/license/mhic/>

<https://www.procore.com/library/maryland-contractors-license>

<https://generalcontractorlicenseguide.com/maryland-contractors-license/>

<https://onestop.md.gov/licenses/home-improvement-license-5d15409d54f24d03e9997ba5>

**In-Home Daycare**

This example is a home daycare, which according to the state, can be structured as one of two options:

- Family Child Care Home – A provider may care for up to eight children with no more than two under the age of two.
- Large Family Child Care Home – A provider may care for between nine and 12 children with no more than four under the age of two.

Step	Required?
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Insurance Requirements	<p>The state requires that home daycares have liability insurance with a limit of at least \$300,000 attached to its homeowner’s insurance.</p> <p>If the home daycare uses a vehicle, then it must obtain commercial auto liability insurance.</p>
Maryland Tax Accounts	<p>Home daycares must pay the following state taxes:</p> <ul style="list-style-type: none"> <li>• Income tax;</li> <li>• Self-employment tax if the owner is considered self-employed by the IRS;</li> <li>• Employee withholding tax if the business has employees;</li> <li>• Worker’s compensation insurance if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul>
State Licenses/Permits	<p>The Maryland State Office of Child Care (OCC) requires all home daycares to have either a Family Child Care Registration or a Large Family Child Care Home Registration, depending upon the size. The OCC will inspect the home before a license is granted. See the summary below for all requirements.</p>
County Tax Accounts	<p>The business must pay personal property taxes to the County for property used during business. Real property taxes are collected from the residential property taxes of the home.</p>
County Licenses/Permits	<p>Some home daycares are required to obtain a Use and Occupancy Permit. Use and Occupancy Permits are not required for family childcare homes but are required for large family childcare homes.</p> <p>All home daycares must have a fire inspection and permit - either completed by the County of if applicable, the cities of Rockville or Gaithersburg.</p> <p>All home daycares must obtain a Private Sewage and Water permit.</p>

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The process for obtaining a Maryland childcare home registration is extensive, requiring a significant amount of training and paperwork. The process is the same for both a family childcare home and a large family childcare home, but the specific requirements for square footage, staffing, etc. differ between the two. The following provides a summary of all the steps required to obtain a Maryland childcare home registration:

1. Complete the online “Family Child Care Orientation” from the Maryland Department of Education’s Division of Early Childhood (DEC) as an overview to establishing a daycare.
2. Attend an in-person orientation through DEC to get more detailed information on the process, including forms and permits required.
3. Complete 24 hours of training in child development, nutrition, and health/safety.
4. Submit an application to the Montgomery County Office of Child Care (OCC - a state office) for a childcare facility license, which includes:
  - a. Notice of intention to operate a facility;
  - b. Application form;
  - c. Site plans;
  - d. Floor plans;
  - e. Plan of operation including written schedule of educational, entertainment and outdoor activities;
  - f. Documentation of compliance with local zoning, building, health, and fire codes;
  - g. Documentation of workers' compensation insurance coverage;
  - h. Fire/disaster safety and evacuation plan;
  - i. Menu plan for the first four weeks of operation;
  - j. Proof of first aid and CPR certification; and
  - k. Written child discipline procedures.

In addition, the applicant must provide the following information on staff:

1. List of all personnel;
2. Staffing pattern;
3. Results of a criminal background check application for all personnel;
4. Permission to examine records of abuse and neglect of children and adults; and
5. Medical evaluation for all staff before being allowed to begin work.

The OCC will also ensure (through an inspection) that the facility is safe and properly equipped – meeting all applicable building, sanitary facility, lighting, and food storage/preparation/service requirements.

## *Establishing a Business in Montgomery County: A Review of State and County Requirements*

### **Sources:**

<https://smallbusiness.chron.com/start-inhome-day-care-maryland-10188.html>

<https://earlychildhood.marylandpublicschools.org/office-child-care>

<https://earlychildhood.marylandpublicschools.org/child-care-providers/family-child-care-providers#slideshow>

[https://earlychildhood.marylandpublicschools.org/system/files/filedepot/3/region\\_5\\_-\\_obtaining\\_local\\_government\\_permits\\_for\\_license\\_or\\_registration.pdf](https://earlychildhood.marylandpublicschools.org/system/files/filedepot/3/region_5_-_obtaining_local_government_permits_for_license_or_registration.pdf)

[http://apps.marylandfamilynetwork.org/mdcfc/pdfs/Family\\_Child\\_Care\\_Insurance.pdf](http://apps.marylandfamilynetwork.org/mdcfc/pdfs/Family_Child_Care_Insurance.pdf)

[http://apps.marylandfamilynetwork.org/mdcfc/pdfs/Tax\\_Facts\\_for\\_Family\\_Child\\_Care\\_Providers.pdf](http://apps.marylandfamilynetwork.org/mdcfc/pdfs/Tax_Facts_for_Family_Child_Care_Providers.pdf)

<https://marylandchild.org/wp-content/uploads/2021/09/Guide-to-Regulated-Child-Care.pdf>

<https://earlychildhood.marylandpublicschools.org/region-5-montgomery-county>

<https://earlychildhood.marylandpublicschools.org/child-care-providers/licensing/licensing-forms>

<https://earlychildhood.marylandpublicschools.org/child-care-providers/licensing/resource-documents/licensing-manuals>

<https://earlychildhood.marylandpublicschools.org/regulations>

<https://www.wonderschool.com/p/child-care-provider-resources/maryland-family-child-care-licensing-home-requirements/>

**Lawyer/Law Practice**

This example is the establishment of a law practice. The requirements for this type of business depends on the business structure chosen, whether the practice has employees, and the location of the business (in home or not). The table below addresses all these scenarios.

<b>Step</b>	<b>Required?</b>
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Insurance Requirements	Maryland does not require attorneys to carry malpractice insurance; however, it is recommended by the State Bar Association.
Maryland Tax Accounts	Depending on the business structure established, businesses may have to pay the following taxes: <ul style="list-style-type: none"> <li>• Income tax for all types of structures;</li> <li>• Self-employment tax if the owner is considered self-employed by the IRS;</li> <li>• Employee withholding tax if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul>
State Licenses/Permits	Attorneys are required to be members of the Maryland Bar Association and register with the Attorney Information System. As part of the Bar, attorneys must also: <ul style="list-style-type: none"> <li>• Submit annual registration fees to the Bar;</li> <li>• Pay an annual assessment to the Client Protection Fund; and</li> <li>• File annual reports on Interest on Lawyers Trust Accounts (IOLTA) (client trust accounts) and pro bono work.</li> </ul> <p>Depending upon the business structure established, the business may be required to register as a Professional Corporation with the state.</p>
County Tax Accounts	The business must pay both real and personal property taxes to the County.
County Licenses/Permits	If the business is based out of a home, a County Home Occupation Registration is required if the business generates more than five visits to the site per week or who has a non-resident employee. There are different types of registrations, depending upon employees. <p>If the business is in a leased or owned building (not the home), it is required to obtain a Use and Occupancy Permit to ensure the use is permitted and that all applicable safety code and health code requirements have been met.</p> <p>Gaithersburg requires a Home-Based Business license. In Rockville, a “Major Home-Based Business Enterprise” may be allowed only after approval of a Special Exception by the Board of Appeals.</p>

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**Sources:**

<https://www.msba.org/opening-your-own-law-firm/>

<https://mdcourts.gov/lawyers/attorneycompliance/requirements>

<https://www.mcmillanmetro.com/articles/lawyer-to-lawyer-malpractice-insurance/>

<https://www.gaithersburgmd.gov/services/licensing>

<https://www.montgomerycountymd.gov/business/doing-business-in-mc/licenses-permits.html>

**Restaurant**

Depending on the size, location, food and beverages offered, and type of restaurant, there are different steps that an owner must take to establish a restaurant in the County. The table details the steps required for obtaining the needed licenses, permits, and documentation for a restaurant in several scenarios. However, these steps are general since restaurants have different stipulations and requirements depending on their location, size, and services offered.

Step	Required?
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Proof(s) of Insurance for Obtaining Needed Licenses/Permits	To obtain a food service facility license, proof of Worker’s Compensation Insurance is needed.
Maryland Taxes and Tax Accounts	<p>Depending on the business structure established, businesses may have to pay the following taxes:</p> <ul style="list-style-type: none"> <li>• Income tax;</li> <li>• Employee withholding tax if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul> <p>Businesses that sell alcohol, such as restaurants, pay an additional alcohol tax.</p> <p>Businesses that sell goods to customers are required to collect Maryland’s sales tax.</p>
State Licenses/Permits	A business license is required for most businesses, including retailers and wholesalers. A Trader’s License is needed for any restaurant, department store, or any other business that sells a product.
County Taxes and Tax Accounts	<p>All businesses that provide customers with plastic or paper carryout bags must charge five cents per bag and the County collects the tax.</p> <p>Businesses must also pay both real and personal property taxes to the County.</p>
County Licenses/Permits	Restaurants that serve both food and alcohol must obtain an Alcohol and Beverage License and a Food Service Facility License.

	<p>A Food Service Manager License is needed to obtain a food service facility license.</p> <p>All food service establishments that have the potential to discharge fats, oils, and grease, which applies to most restaurants, must apply to Washington Suburban Sanitation Commission (WSSC) for a Food Service Establishment (FSE) Wastewater Discharge Permit.</p>
County Inspections	<p>An alcohol enforcement inspector must conduct an inspection prior to the issuance of an alcohol and beverage license both before and after the hearing by the Board of License Commissioners.</p> <p>An Environmental Health Inspection is needed prior to the issuance of a food service facility license.</p>
Other Certifications Needed to Obtain County Licenses/Permits	<p>The following certifications are needed to obtain an alcohol and beverage license:</p> <ul style="list-style-type: none"> <li>• Alcohol Awareness Certification</li> <li>• Use and Occupancy Certificate</li> </ul> <p>An Allergy Awareness Certification is needed to obtain a food service facility license.</p>

Both the alcohol and beverage license and the food service facility license have lengthy application processes that require proof of other certificates and documents prior to receiving the license. The steps for each are described below.

**Alcohol and Beverage License Application Process<sup>41</sup>**

1. Complete application for license.
2. Pay application fee, which is \$600, along with a \$120 fingerprint processing fee for each applicant and manager.
3. Once the application is reviewed, a hearing will be scheduled.
4. Prior to the hearing, an alcohol enforcement inspector will visit the facility and prepare a report to the Board of License Commissioners prior to the hearing.
5. The applicant(s) must obtain an Alcohol Awareness Certification prior to the hearing.
6. At the hearing, the applicant(s) must bring: (1) a printed menu; and 2) a current floor plan of the facility.
7. About one to two weeks after the hearing, applicants will receive written notice of their approval of the license.
8. If it is approved, applicants must call the LRE office to schedule a final compliance inspection once the following documents are obtained:
  - a. Use and Occupancy Certificate
  - b. Food Service Facility License
  - c. State Sales and Use Tax License
  - d. Alcohol Awareness Certificate

<sup>41</sup> OLO notes that in addition to the lengthy application, it can be difficult for a business to decide which class of license they should apply for, as there are almost 30 different classes offered, multiple of which are denoted as suitable for a restaurant.

9. Pick up license after completed final compliance inspection.
10. Annually apply for renewal of license.

### **Food Service Facility Application Process**

Depending on if a food service facility business is occupying new construction, leasing a space that used to serve food, or a space that never served food, the application process is different.

For a change of ownership of a food service facility in a fixed location, the process for applying for a food service facility license is as follows:

1. Complete application and submit the appropriate fee for the license. In the application, the following documentation is needed before a license can be approved:
  - a. Menu of food service facility;
  - b. HACCP flow charts;<sup>42</sup>
  - c. Worker's Compensation insurance documentation;
  - d. Proof of passee Allergy Awareness Certificate; and
  - e. Certified Food Service Manager License application.
2. Prior to any renovations of the facility, plans (such as the food service and HACCP plans) must be submitted and approved.
3. The application and/or plans will go under review. At the discretion of the Environmental Health Specialist, an inspection may be conducted.
4. Any required repairs will be noted and must be completed prior to approval.
5. Once approval is granted, the license will be sent to the applicant.
6. Annual renewal of license is required.

### **Sources:**

<https://www.montgomerycountymd.gov/ABS/resources/files/licensure/abs-how-to-apply-annual-license.pdf>  
<https://www.montgomerycountymd.gov/ABS/licensure/license/>  
<https://www.montgomerycountymd.gov/HHS/LandR/FoodServiceFacility.html>  
<https://businessexpress.maryland.gov/start/licenses-and-permits>  
<https://www.wsscwater.com/fog>  
<https://takomaparkmd.gov/government/housing-and-community-development/economic-development/>  
<https://www.marylandtaxes.gov/business/types-of-business-licenses.php>

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<sup>42</sup> Hazard Analysis Critical Control Point (HACCP) is a management system in which food safety is addressed through the analysis and control of biological, chemical, and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished product.

**Personal Care Establishment (Hair Salon)**

Personal care businesses, such as hair and nail salons, are one of the most common categories of businesses in the County. OLO chose a hair salon for the following illustration.

<b>Step</b>	<b>Required?</b>
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Proof(s) of Insurance for Obtaining Needed Licenses/Permits	Worker’s Compensation insurance is needed for a Salon permit.
Maryland Tax Accounts	<p>Depending on the business structured established, businesses may have to pay the following taxes:</p> <ul style="list-style-type: none"> <li>• Income tax;</li> <li>• Self-employment tax if the owner is considered self-employed by the IRS;</li> <li>• Employee withholding tax if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul> <p>Businesses that sell goods to customers are required to collect Maryland’s sales tax.</p>

<p>State Licenses/Permits</p>	<p>The Maryland Board of Cosmetologists oversees online licensing resources. A salon permit is needed to operate; there is also a full-service salon permit for salons authorized to offer all cosmetology services or a limited practice salon permit, which is authorized to offer only esthetics or manicuring services.</p> <p>A hairstylist license is needed for all employees who perform hair services.</p> <p>A business license is required for most businesses, including retailers and wholesalers.</p> <p>A Trader’s License is needed for any business that sells a product; therefore, if the salon sells any products, it must obtain a trader’s license.</p>
<p>County Tax Accounts</p>	<p>Businesses that provide either plastic or paper bags to customers must charge 5 cents for each bag and the County collects the tax.</p> <p>Businesses must also pay both real and personal property taxes to the County.</p>
<p>County Licenses/Permits</p>	<p>If salons want to serve alcohol to customers, they can apply for an alcohol and beverage license that limits salons to serving one drink per customer.</p> <p>A new salon must obtain a use and occupancy permit from the County zoning board prior to applying for a salon permit from the state.</p>
<p>State/County Inspections</p>	<p>An inspector from the Board of Cosmetologists will perform an inspection to ensure there is the necessary equipment, layout, and is a safe and sanitary environment prior to issuing a salon permit.</p>

According to the State of Maryland’s website, these are the following steps to opening a salon in Maryland:

1. Complete the online [new salon application](#). A business should not start this process until a use and occupancy permit is obtained from the local zoning board.
2. Submit the completed new shop application with the \$200 application fee, which may be completed online.
3. The board office will send a salon/shop opening letter that you must be posted in the salon/shop. The salon/shop opening letter will serve as a temporary license for operations. After steps 1-3 have been successfully completed and the shop opening letter was received, a salon can begin to provide services.
4. The board office will contact an inspector to conduct a salon/shop opening inspection at the salon/shop as soon as possible.

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5. Rules and regulations must be posted in the salon/shop.
6. The inspector will schedule a visit to ensure the salon/shop has the required equipment, can promote a safe and sanitary environment, and has the proper layout needed for operating. If corrections are needed, the inspector will schedule another inspection. If all requirements are met, the inspector will notify the board office on the business' behalf that the salon/shop meets all requirements. Once the board office receives approval notification from the inspector, a shop license will be mailed out.

### **Sources:**

<https://www.montgomerycountymd.gov/ABS/licensure/license/>

<https://businessexpress.maryland.gov/start/licenses-and-permits>

<https://www.dllr.state.md.us/license/cos/cosfirm.shtml>

<https://www.dllr.state.md.us/license/cos/>

<https://www.montgomerycountymd.gov/ABS/licensure/license/>

<https://www.marylandtaxes.gov/business/types-of-business-licenses.php>

**Retail Store (Clothing)**

This walkthrough is meant to illustrate the steps needed to open a retail clothing store in the County.

<b>Step</b>	<b>Required?</b>
Registration with State	Yes
Obtain Federal ID Tax Number	Yes
Federal License/Permit	None
Proof(s) of Insurance for Obtaining Needed Licenses/Permits	Proof of Worker’s compensation insurance is needed for any business that has employees.
Maryland Tax Accounts	Depending on the business structured established, businesses may have to pay the following taxes: <ul style="list-style-type: none"> <li>• Income tax;</li> <li>• Self-employment tax if the owner is considered self-employed by the IRS;</li> <li>• Employee withholding tax if the business has employees; and</li> <li>• Personal property taxes (and all must file an Annual Report, also known as a Personal Property Return Report).</li> </ul>
State Licenses/Permits	A Trader’s License is needed for any business that sells a product. If the retail store is part of a chain, meaning the owner operates two or more retail stores under the same general management or ownership in Maryland, a chain store license must be obtained.
County Tax Accounts	Businesses that provide either plastic or paper bags to customers must charge 5 cents for each bag and the County collects the tax.  Businesses must also pay both real and personal property taxes to the County.
County Licenses/Permits	None
State/County Inspections	None
Other Certifications Needed to Obtain County Licenses/Permits	A use and occupancy certificate is needed for all businesses that have a physical location.

**Sources:**

- <https://www.montgomerycountymd.gov/cct/business-license.html>
- <https://businessexpress.maryland.gov/start/licenses-and-permits>
- <https://www.montgomerycountymd.gov/business/doing-business-in-mc/taxes.html>
- <https://www.marylandtaxes.gov/business/types-of-business-licenses.php>

## **Chapter 4. Observations, Conclusion, and Discussion Issues**

Overall, OLO found that establishing a business in Montgomery County may be challenging due to the variety of State, local, and municipal government legal and regulatory requirements that a business owner must navigate. This chapter provides an overview of the feedback OLO heard from stakeholders on the difficulties of establishing a business, along with OLO's observations. This chapter also offers several issues for the County Council to discuss with stakeholders on how the County can better support potential business owners.

### **A. Feedback and Observations**

This section provides feedback from stakeholders from government agencies and business organizations, followed by several observations from OLO on establishing a business in Montgomery County.

**Feedback from Community.** OLO reached out to all Chambers of Commerce in the County (hearing back from several) and spoke with several State, County, and municipal government staff stakeholders to gain insight on the process for establishing a business in the County, including barriers and opportunities for improvement. The feedback OLO received includes:

- The regulations and requirements for establishing a business are not clear and the processes are difficult for many businesses to navigate. Some types of businesses have very clear, concise, and comprehensive summaries of the steps they must take; however, this is not the case for many types of businesses.
- It is not clear to many businesses whether a requirement is for the State or County and therefore, business owners do not know who to contact when an issue arises. While Maryland Business Express is a significant improvement compared to the previous version of the website, it is not a one stop shop as advertised. A business owner must navigate multiple websites to determine business requirements.
- A business owner often needs to consult with an expert (i.e., lawyer, accountant, or business professional) to help them navigate requirements and comply with all relevant laws.
- The process for directing calls from individuals with questions about establishing a business is arbitrary. Sometimes business owners are directed to the appropriate County staff who can help them immediately, and sometimes they are sent to 311 where they must wait for an answer after placing their inquiry into the system.
- Municipalities that require permits should do a better job of communicating these requirements to the public. Most business owners are aware of State and County requirements, but not of municipalities' requirements.
- Language accessibility can be an issue for many business owners. Often, forms, policies, and messages are only available in English (or in Spanish that is too formal). Translation services offered by the County, like telephone interpretation, can also be difficult to navigate.
- There needs to be more communication between the County, Chambers of Commerce, business associations, and other stakeholders around policies that can have a substantial influence on the business community, including regulations, taxes, and programs.
- Stakeholders raised concerns about unfunded mandates from the government. When laws or requirements change, there is often a cost to businesses to meet the mandate and can be a direct or indirect cost (technology, additional staff, time to understand/implement new law). This is further

complicated by the lack of formal notification of any new laws or mandates, which makes it difficult to comply.

**Observations from OLO.** In researching the requirements to start a business in Montgomery County, OLO had the following observations:

- Since each business is unique, it not possible to generally summarize how to establish a business. All aspects of compliance (i.e., required permits/licenses, taxes, insurance, etc.) are different based on a business' type, its industry, its structure, and its location. Potential business owners will find it beneficial to have an expert (lawyer, accountant, etc.) help them navigate the system and ensure compliance.
- Navigating the state, local, and municipal government requirements (and the order in which they must be completed) is difficult and confusing. For example, OLO had to review over 200 state permits to determine which business licenses were relevant for the sample businesses in Chapter 3.
- The steps to starting a business do not apply chronologically for all businesses. For example, obtaining licenses, permits, and registrations are listed in the steps to starting a business before purchasing insurance, such as Worker's Compensation. However, for a food service facility license, proof of Worker's Compensation insurance is needed before the license can be obtained.
- It is unclear what documentation a business needs to obtain a license or permit. Additionally, some licenses have overlapping requirements so it is not clear what a business owner should apply for first.
- There are hidden costs associated with pursuing licenses. The County is up front with the cost of applying for a license, however there may be multiple certifications and other applications needed to obtain a license, which is not reflected in the fee.
- While the County website mentions that different permits, processes, and taxes may apply to businesses within certain municipalities, it is not clear where specific information is located. While information on the County business page about municipality-specific taxes is available, OLO had to search municipality websites to find information on municipality-specific permits. The County website does not include links to these pages.

## **B. Conclusion and Discussion Issues**

This OLO report provides a summary of all the potential requirements and steps for the establishment of a business in Montgomery County. Overall, the process can be complex and confusing as it is unique for every business. There are a multitude of legal and financial requirements that can be difficult to identify and navigate; almost always, it is suggested on both the County's Business Center website and the Maryland Business Express website that a potential business owner contact a lawyer, accountant, or other business expert to ensure that they complete everything appropriately.

Therefore, OLO believes the first step to assisting potential business owners is to help businesses clearly outline all the requirements that are needed to establish their specific business, increase outreach on available resources to support potential businesses, and encourage assistance from experts in the business community. OLO has identified the following three questions to begin the discussion on what the County Government can do to support those in the County who wish to establish a business:

**1. How can the County Government more effectively communicate what services, resources, and supports are available to those wanting to establish a business? How can the County Government better respond to those seeking information?**

The steps involved in establishing a business in the County can be difficult to understand and are highly dependent upon the business type, its structure, and its location. While the County's Business Center provides extensive information on how to start and manage a business, potential business owners may not be aware of the available resources. The Montgomery County Business Center's 2022 Annual Report states that one of its goals is to "take a more present stance, with more proactive engagement and outreach to our business community." OLO recommends that the Council discuss with the Business Center the expansion of outreach and education to those who would like to establish a business.

**2. How can the County Government more effectively communicate how to navigate the state, County and municipal requirements to establish a business?**

The most common issue OLO heard (and experienced first-hand while researching this project) was the lack of clarity in navigating requirements at all three levels of government. Potential business owners do not know whether to pursue state or County requirements first; it is not uncommon for a business to complete all the steps at the County level only to learn they missed a step at the state level and would have to restart the entire process (or vice versa).

While both the state and County "how to start a business" websites provide a lot of information, it is not clear how to navigate between the two (and with municipalities, when relevant). Further, since each business is unique, OLO found that it was not straightforward to determine the distinct requirements needed for any given new business. OLO recommends that the Council discuss with stakeholders how to better assist those seeking to start a business with navigating the requirements at each level of government.

**3. How can the County Government better connect those looking to establish a business with business support organizations/chambers of commerce/professionals (lawyers, accountants, etc.) in the County? How can the County Government encourage these organizations/experts to provide support and resources to potential business owners?**

As stated earlier, the legal and financial requirements for establishing a business in the County can be overwhelming and confusing. Potential business owners could use the guidance of experts to determine their specific business' needs. According to the Montgomery County's Business Center's Annual Report, the County is already utilizing outside organizations and individuals to assist potential and current businesses. In 2022, the Business Center had \$2 million in contracts that provided 2,850 hours of technical assistance to 900 businesses, 225 training events for 3,650 businesses, and 780 businesses in one-on-one coaching.

OLO recommends that the County discuss with stakeholders ways in which the County can further connect those wanting to establish a business with technical professionals willing to help, such as business organizations, chambers of commerce, lawyers, accountants, and other experts.

**Chapter 5. Agency Comments**

The Office of Legislative Oversight (OLO) shared final drafts of this report with staff from Montgomery County Government. OLO appreciates the time taken by County staff to review the draft report and to provide technical feedback. This final report incorporates technical corrections and feedback received from County staff.

The written comments received from the Montgomery County Chief Administrative Officer is attached in its entirety on the following pages.



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

Richard S. Madaleno  
*Chief Administrative Officer*

MEMORANDUM

July 13, 2023

TO: Chris Cihlar, Director  
Office of Legislative Oversight

FROM: *RM*  
for Richard S. Madaleno, Chief Administrative Officer

SUBJECT: Draft OLO Report 2023-X: Establishing a Business in Montgomery County: A Review of State and County Requirements

Thank you for the opportunity to comment on the Office of Legislative Oversight's (OLO) Draft Report 2023-X, Establishing a Business in Montgomery County: A Review of State and County Requirements.

The County Executive has long been a champion for small businesses in our County and has led County government with a strong ethos of customer service in all departments. In the departments that directly serve the business community, the County Executive has emphasized that County staff must lead in a spirit of partnership when assisting businesses and has empowered his leadership team to do the same.

Nowhere is this collaborative spirit and customer service focus clearer than in the County Executive's revamp of the Business Center – formerly known as the Business Advancement Team. As the County emerged from the COVID-19 pandemic, the administration saw an opportunity to expand this team and shift its focus from pandemic assistance to proactive and responsive customer service for our businesses.

As a part of this effort, a new Business Center website was created in partnership with County businesses and business support organizations. The new site was designed from the perspective of our businesses, not from the perspective of County programs or processes. Stakeholders in County businesses noted that the old website felt bloated and chaotic due to the fact the website tried to provide all possible information any potential business owner may ever be interested in reviewing. The cluttered site made it difficult for businesses to find answers to the most common questions. In response, the new website was designed to answer the most pressing questions

about funding, permitting, and licensing, as these were the topics identified as most needed during the extensive outreach period.

As the OLO report points out, Montgomery County is far from the only organization interacting with and regulating businesses. Newly established businesses in the County encounter requirements from the State, from municipalities (as applicable), from Executive Branch departments, and from Montgomery Planning (as applicable). Furthermore, the steps vary depending on the type of business being established. As the OLO report states, there are over 200 state permits alone, and even the chronological order of steps differ depending on the business type. While the Business Center website will be continuously updated with guides for different types of businesses, the report emphasizes that human contact and strong customer service is necessary. The investments in Business Center personnel will remain crucial to help businesses navigate the startup process for their unique needs.

The County Executive believes strongly in finding opportunities to streamline County processes to make it easier for businesses to get started in the Montgomery County. As the OLO report mentions in its introduction, OLO was unable to identify any specific streamlining opportunities, however we will continue to work with the Council and business community to find opportunities to streamline processes for our new businesses.

The conclusion and discussion section of the report voices some important questions that merit a deeper discussion with the Executive, the Council, and other areas of government where needed.

**Discussion Question 1:** How can the County government more effectively communicate what services, resources, and supports are available to those wanting to establish a business? How can the County government better respond to those seeking information?

The County Executive has increased the budget for the Business Center several years in a row to create more opportunity for outreach and proactive engagement, though this year, the Council declined to increase the budget. As noted by OLO and observed by the Business Center, this work is primarily driven by people with strong customer service, not websites.

**Discussion Question 2:** How can the County government more effectively communicate how to navigate the State, County, and municipal requirements to establish a business?

The Executive and the Council should engage the appropriate state and local government agencies in this discussion to determine appropriate ways to reference and support the different elements of the process controlled by different levels of government. Without partnership among these other levels of government, the County lacks the authority and capacity to address potential deficiencies or confusion with processes outside of its control.

July 13, 2023

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**Discussion Question 3:** How can the County government better connect those looking to establish a business with business support organizations/chambers of commerce/professionals (lawyers, accountants, etc.) in the County? How can the County government encourage these organizations/experts to provide support and resources to potential business owners?

This is a worthwhile conversation, though we should be mindful that private industry will be looking for the government to solve problems rather than creating another avenue to solve these issues. In addition, the County should avoid the temptation to endorse or promote businesses, whose business is supporting other businesses, at the appearance of favoritism.

Additionally, because of the varied and specific nature of businesses it is near impossible to create a singular resource that truly contains all necessary information. The County's Business Center is in the process of creating "starter kits" for specific business types/industries. These industries were selected based on feedback and queries from prospective business owners. These starter kits will provide a detailed step-by-step guide for those industries to start in the County. While this will not address all the broader complexities, it is a strong approach to providing the resources needed by the business community.

The OLO report illustrates well the complexities of tackling this issue. We appreciate the partnership between the Executive Branch, the Economic Development Committee, and all the members of the Council to ensure Montgomery County is a welcoming environment for businesses to start and grow.

We look forward to discussing these items at a future Council work session.

RM/jw/gs

cc: Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive  
Jake Weissmann, Assistant Chief Administrative Officer, Office of the County Executive  
Ken Hartman, Director of Strategic Partnerships, Office of the County Executive  
Gene Smith, Manager, Business Center, Office of the County Executive