

**Amendment No. \_\_ to Bill 1401**

Proposed by: Ms. Williams

Introduced by:

Date:

**A BILL TO REPEAL AND REPLACE TALBOT COUNTY CODE CHAPTER 190, ENTITLED “ZONING, SUBDIVISION, AND LAND USE DEVELOPMENT”, IN ITS ENTIRETY, AND TO ENACT AN ENTIRE NEW CHAPTER 190 OF THE TALBOT COUNTY CODE TO IMPLEMENT ZONING CONTROLS AND REGULATIONS CONSISTENT WITH AND PURSUANT TO THE 2016 TALBOT COUNTY COMPREHENSIVE PLAN**

<b>KEY</b>	
<b>Boldface</b> .....	Heading or defined term
<u>Underlining</u> .....	Added by amendment
<del>Strikethrough</del> .....	Deleted by amendment
* * * .....	Existing Bill unaffected

Proposed Amendments: The amendments proposed to the text of Exhibit “A” to the Bill are as follows:

\* \* \*

**33.6 DWELLING, ACCESSORY**

**D. Permitted use of accessory dwellings:**

1. The property owner may live on-site and rent one of the dwellings, or may rent the entire property. The primary dwelling and accessory dwelling shall not be rented to different tenants, and a tenant shall not sublease one of the dwellings.
2. The accessory dwelling may be used as a guest house or an employee dwelling.
3. An accessory dwelling in a detached accessory structures shall not be used as or in conjunction with ~~a short term rental or~~ a bed and breakfast establishment.

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### 33.20. SHORT-TERM RENTAL

#### A. LICENSE REQUIRED

A license issued pursuant to §190-63 of this Chapter is required for all short-term rentals. Short-term rentals without such license are prohibited. Anyone operating or advertising an unlicensed short-term rental on or after six (6) months from (the date this bill takes effect) shall be subject to a fine of not less than \$500 and shall not be entitled to apply for a short-term rental license for a period of twelve (12) months from the date of such violation.

#### B. ELIGIBILITY

A short-term rental license may ~~only~~ be issued for either a primary residential dwelling unit or for an accessory dwelling unit. ~~Detached accessory dwellings, apartments or bedrooms within a detached accessory structure may not be used as sleeping quarters in conjunction with a short term rental.~~ on a property but not for both.

#### C. OPERATING GUIDELINES

\* \* \*

3. Outside areas intended for use by short-term tenants, such as decks, patios, porches, game courts, swimming pools, and similar areas, shall be screened from neighboring properties by one or more of the following prior to approval of a new short-term rental license:

- a. Setbacks of at least 50 feet; or,
- b. ~~If sufficient setback is not available, a combination of a Type C landscape yard (§190-40.5) and attractive, solid or semi-solid fencing at least 6 feet high to separate and screen between outside use areas and neighboring properties; or,~~
- ~~—————~~ c. A combination of vegetation and topographic features determined by the Planning Director or Short-Term Rental Review Board to provide sufficient separation and screening.

\* \* \*

9. The short-term rental property shall comply with the International Residential Building Code adopted by Talbot County, as amended, with respect to emergency escape and rescue openings, exits and smoke alarms. The property shall be equipped with fire extinguishers in the kitchen and any other area in which flammable or combustible materials are kept or stored. ~~A short term rental license shall not be issued until the inspections are completed by a certified building inspector and determined that the short term rental property complies with the requirements in this Subsection.~~

\* \* \*

11. The applicant shall comply with all codes, regulations, and requirements administered by the Talbot County Health Department regarding potable water and sanitary facilities. A short-term rental license shall not be issued until the Health Department has determined that the short-term rental property complies with the requirements of this Subsection.

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### 63.1. SHORT-TERM RENTAL REVIEW BOARD

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#### B. TERM

Each member shall serve for a staggered term of up to four (4) years or until a successor is appointed. Members shall be eligible for reappointment twice.

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### 63.2. NEW LICENSE APPLICATION PROCESS

#### A. WHO MAY APPLY

Only the record title holder(s) of the property where the short-term rental activity will occur may apply for a short-term rental license.

#### B. WHEN APPLICATIONS ACCEPTED

Applications for a new Short-Term Rental license will only be accepted by the Talbot County Department of Planning and Zoning during the months of January, February, July and August.

#### ~~B. C.~~ CONTENTS OF APPLICATION

All applications for short-term rental licenses shall be submitted to the Talbot County Department of Planning and Zoning on a form prepared and approved by the Planning Director. The application shall include, and the applicant shall provide, without limitation, the following:

1. A statement as to whether the proposed short-term rental dwelling is the applicant's primary residence;

2. A statement whether the property is or is not located within a homeowners association, property owners association and/or is governed by any type of covenants, conditions and restrictions specifically related to the rental of properties or short-term rentals.

~~2.~~ 3. Proof that the applicant(s) can satisfactorily monitor or has retained the services of a resident agent capable of monitoring the short-term rental property. The applicant or resident agent shall have a home or office within thirty (30) miles of the short-term rental unit and be available to respond from this location during periods of short-term rental;

~~3.~~ 4. An address and telephone number where the applicant or, if applicable, their resident agent, may be contacted 24 hours a day during any short-term rental period;

~~4. Copy of insurance policy for short-term rental or vacation rental use in the minimum amount of \$500,000;~~

5. Statement of where and how the applicant will be advertising the short-term rental, including printed, on-line and audio or video material. All advertising must include the Short-term rental license number;

6. A copy of the standard lease agreement and house rules.

7. A ~~floor-plan and site plan~~, to scale, with the use of each room labeled, including locations of structures, areas to be rented, expected use of specific rooms, decks, patios, porches, swimming pools, outdoor entertainment areas, garages, fencing, ~~vegetative screening, roads, paved areas, walkways~~ and parking spaces.

8. A satisfactory inspection report from a licensed inspector as to water quality and, if applicable, septic system operation.

9. Notarized signature of the applicant representing that all of the contents of the application are true and accurate to the best of the applicant's knowledge and belief and acknowledging that any material misrepresentations or omissions are grounds for denial, revocation, or suspension of the license; ~~and,~~

9. 10. Any other information as determined by the Planning Director to demonstrate the ability to comply with this Section and other provisions in this Chapter 190 related to short-term rentals.

#### D. INSPECTION OF PROPERTY

Upon receipt of an application for a short term rental license, the applicant shall schedule an onsite inspection of the property with the Planning Director or a Code Enforcement Officer in order to: 1) verify that the property complies with the International Residential Building Code adopted by Talbot County, as amended, with respect to emergency escape and rescue openings, exits and smoke alarms; 2) determine that the plan submitted is accurate, and 3) make note of any special circumstances.

#### C. E. FEES

The fee for a short-term rental license shall be the amount determined in the fee schedule adopted annually by the County Council. No short-term rental license will be issued until all fees are paid.

#### E. F. NOTICE OF APPLICATION

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#### E. 500 FOOT SETBACK

~~New short term rentals shall be a minimum of 500 feet apart. For purposes of this Subsection, the measurement shall not be taken over navigable water and shall be taken between structures used for the short term rental use and not between property lines.~~

#### F. G. DURATION OF NEW LICENSE

A new license shall be issued for a period of up to one year, expiring twelve (12) months from the date of issuance on December 31<sup>st</sup> unless otherwise specified by the Short-Term Rental Review Board.

## G. H. REVIEW BY GOVERNMENTAL ENTITIES AND OFFICIALS

License applications are reviewed by Talbot County Planning and Zoning, Talbot County Health Department, Talbot County Office of Permits and Inspections, and any other reviewing agencies the Planning Director deems appropriate.

## H. I. HEARING AND DECISION

1. The Short-Term Rental Review Board shall hold a public hearing on all new license applications.

2. The hearing for new license applications shall be no sooner than twenty-one (21) days from the date set forth in the certificate of service required under §190.63.1.D.5 above.

3. The meeting shall be advertised through posting the property in accordance with §190.54.5.B. The Code Compliance Officer shall be responsible for posting the property.

4. The meeting notice shall be sent by certified mail to the list of property owners who received the notice of the application.

5. The Planning Director and the Code Compliance Officer shall be authorized, but not required, to provide the Board with a recommendation on new license applications, including conditions, limitations, and restrictions to ensure that the short-term rental complies with applicable law. The Board shall consider these Planning Director's recommendations before making a decision on the application.

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## I. J. APPEALS

Any party that participated in the hearing and is aggrieved by the Board's decision may file an appeal to the Talbot County Board of Appeals within thirty (30) days of the issuance of the written decision. Such appeal shall be on the record.

## 63.3. RENEWAL

### A. APPLICATIONS

A license renewal application must be submitted by the record title holder(s) of the property to the Talbot County Department of Planning and Zoning on a form prepared and approved by the Planning Director at least sixty (60) days prior to expiration. The application shall include without limitation the following:

1. Proof of compliance with the Talbot County accommodation tax. ~~The Planning Director may require submission of the appropriate year's Federal 1040 form, Schedule E, Schedule C or other appropriate forms and schedules to determine whether the accommodation taxes have been paid;~~

2. The number of days that the dwelling was rented during the effective short-term rental license period documented by appropriate receipts or reservation forms, if requested by the Planning Director;

3. The renewal application shall include, and the applicant shall provide, without limitation, any document required under §190.63.2.B above that has been revised or amended, to

include; ~~insurance policy~~, house rules, ~~floor or site~~ plans to scale, etc.;

4. The applicant must provide notice of the short-term rental renewal application as required for a new license under §190.63.2.D above and,

5. If applicable, the Code Compliance Officer shall provide information on the application, including any written or verified complaints and zoning enforcement investigations applicable to the subject short-term rental property.

## B. TIMING

If the renewal application is not received sixty (60) days prior to expiration, the application shall be treated as and comply with initial application requirements.

## C. ADMINISTRATIVE APPROVAL

Renewal applications shall be processed administratively by the Planning Director without a hearing by the Short-Term Rental Review Board unless the Planning Director or Code Compliance Officer determines that substantial reasons exist to refer the application to the Short-Term Rental Review Board, in which case the application shall be processed in the same manner as a new license application pursuant to §190.63.2 above. Substantial reasons for referring a renewal application to the Board include without limitation:

1. Material changes in the character of the neighborhood where the short-term rental is located that may affect the short-term rental's impact on surrounding properties;

2. Discovery of any potential false, inaccurate, incomplete or incorrect statements by the licensee in the original or renewal license application; or,

3. ~~Repeated v~~Violations of the Talbot County Code related to the operation of the short-term rental on the property or violations of any conditions imposed on the license.

## D. CONDITIONS

The Planning Director may impose conditions on the license renewal if necessary to address impacts of the use related to the requirements for short-term rentals.

## E. GROUNDS FOR DENIAL

The Planning Director may decline to issue, decline to renew or revoke a short-term rental license based on the following:

1. False, inaccurate, incomplete or incorrect statement in any application or renewal;

2. Any ~~serious or repeated~~ infraction, disturbance, nuisance, failure to monitor, or other problem or violation occurring during a short-term rental;

3. Violation of any law or ordinance with respect to the short-term rental, or any term, condition, or restriction of the short-term rental license; and/or,

4. Failure to pay the Talbot County accommodations tax.

## F. WAIVER

If unable to meet license application requirements listed herein, a property owner in possession of a short-term rental license at the time of adoption of these regulations may apply for a waiver or variance as required by this Chapter.

## G. DURATION

A renewal license may be issued for a period of up to two (2) years if the Planning Director determines that the rental activity was in compliance with the Code and any conditions of approval imposed on the short-term rental permit during the prior term. All renewal licenses shall expire two (2) years from the date of issuance on December 31st unless otherwise specified by the Planning Director.

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## 63.4. COMPLAINTS

### A. FILING AND HEARING PROCESS

1. In addition to any other remedies that may be available, a person alleging that a licensee has violated any provision of this Chapter 190 as it relates to the operation of a short-term rental that remains unresolved by the property owner or resident agent, may file a complaint on a form prepared and approved by the Planning Director with the Department of Planning and Zoning. The Planning Director or the County Attorney ~~complainant~~ shall serve a copy of the complaint on the licensee at the address of the short-term rental by certified mail, return receipt requested or other shipping carrier with adult signature required. The complaint shall be signed by the complainant, set forth the allegations in a clear and concise manner, and contain a certificate of service. The complainant shall include any relevant evidence establishing the violation with the complaint.

2. Once filed with the Department of Planning and Zoning, copies of the complaint shall promptly be forwarded to the Short Term Rental Board ~~Planning Director~~ and the Talbot County Office of Law.

3. The licensee shall file a response to the complaint with the Board's Secretary within twenty-one (21) days of service on a form prepared and approved by the Planning Director. The response shall set forth any rebuttal to the allegations in the complaint and may include any relevant evidence. The licensee shall also serve a copy of the response on the complainant by certified mail, return receipt requested or other shipping carrier with adult signature required, at the address identified in the complaint. Failure to file a response shall be deemed an admission to any allegations contained in the complaint.

4. The Board shall schedule a hearing date at least ten (10) days after the time for filing a response has elapsed. The Board shall provide notice of the hearing to the complainant and the licensee by certified mail, return receipt requested or other shipping carrier with adult signature required. At the hearing, the complainant shall be given the opportunity to present evidence of the violation and the licensee shall be given the opportunity to respond with

evidence of its own. The Planning Director, the Code Compliance Office, and any other party may participate in the hearing as well.

5. Board Authority.

a. If the Board determines that a violation has occurred, the Board shall be authorized to suspend the licensee for any period of time the Board deems appropriate or to revoke the license. In addition, the Board may impose a fine on the licensee of up to \$1,000 per violation. Each day that a violation exists or continues constitutes a separate violation.

b. The Board's authority in this Section shall be in addition to, and does not limit the County's enforcement authority under Chapter 58 of, the Talbot County Code.

6. Following the hearing, the Board shall vote on whether a violation has occurred. If a violation is confirmed, they shall also determine whether the license should be suspended, revoked, and/or a fine imposed. The Board may impose conditions, restrictions and limitations on licenses for short-term rentals that are found to be in violation. Such conditions may include without limitation, the requirement that the owner retain the services of an agent who is a licensed realtor or similarly qualified professional with experience in managing short-term rentals.

7. The Board shall issue a written decision setting forth its decision and applicable findings.

B. Any party that participated in the hearing and is aggrieved by the Board's decision may file an appeal to the Talbot County board of Appeals within thirty (30) days of the issuance of the written decision. Such appeal shall be on-the-record.

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## 78. TERMS DEFINED

As used in this chapter, the following terms shall have the meanings indicated:

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### SHORT-TERM RENTAL

Any lease or other transfer of the right to occupy a primary dwelling unit other than a hotel, motel, inn, or bed-and-breakfast establishment, for not less than one night and not exceeding fourteen (14) weeks ~~four months~~.

\* \* \*

Purpose: These changes are intended to allow dwelling units in accessory structures to be rented for short-term rentals, to allow greater flexibility to address problems with setbacks and eliminate the requirement for a 500 foot setback between short-term rental properties, to increase the possible maximum fines the Short Term Rental Review Board can issue, to add a requirement for potable water inspections, and to limit when new short-term rental license

applications can be received to reduce the staff burden on the review of these applications, among other changes.

Amendment not substantive: An amended ordinance cannot be deemed to be a new or different one unless it enlarges or narrows the scope of the original ordinance to such an extent that the ordinance as enacted can be said to be misleading in a substantial manner in its final form. Amendments that do not defeat the original purpose of the ordinance are not so substantial as to become a new ordinance. *Ajamian v. Montgomery County*, 99 Md. App. 665, 684-685 (1994). This amendment does not meet the test and therefore is non-substantive.