COUNTY COUNCIL

OF

TALBOT COUNTY, MARYLAND

2019 Legislative Session, Legislative Day No. : September 24, 2019

Bill No.: 1435

Expiration Date: November 28, 2019

Introduced by: Mr. Callahan, Mr. Divilio, Mr. Lesher, Mr. Pack, Ms. Price

A BILL TO AMEND CHAPTER 190 OF THE TALBOT COUNTY CODE (ZONING, SUBDIVISION AND LAND DEVELOPMENT) TO ALLOW A REPLACEMENT PIER BEYOND ONE HUNDRED FIFTY FEET (150') FROM MEAN HIGH WATER FOR DIRECT ACCESS TO LEGAL NONCONFORMING BOATHOUSES

By the Council: September 24, 2019

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, October 22, 2019 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By Order Susan W. Moran

Susan W. Moran, Secretary

A BILL TO AMEND CHAPTER 190 OF THE TALBOT COUNTY CODE (ZONING, SUBDIVISION AND LAND DEVELOPMENT) TO ALLOW A REPLACEMENT PIER BEYOND ONE HUNDRED FIFTY FEET (150') FROM MEAN HIGH WATER FOR DIRECT ACCESS TO LEGAL NONCONFORMING BOATHOUSES

WHEREAS, the Talbot County Code ("Code") limits the length of new piers to one hundred fifty feet (150') from mean high water and the maximum width to six feet (6'), *see* Code § 190-31.2 D.; and,

WHEREAS, the Code prohibits the construction of new boathouses, *see* Code § 190-31.2 H; and,

WHEREAS, the Code allows lawfully established nonconforming uses and structures to continue, but limits the number and extent of such uses and structures by prohibiting or restricting enlargement, reestablishment after abandonment or change in use, *see* Code § 190-47.1 A.; and,

WHEREAS, the Code authorizes in-kind replacement of a functional pier completed prior to February 14, 2004, that meets the State of Maryland standard of performing at least eighty-five percent (85%) of the designed purpose, even if the pier exceeds the maximum allowed one hundred fifty fee (150') length; and,

WHEREAS, under the Code as currently written, a pier nonconforming as to length with less than eighty-five percent (85%) functionality that is connected to a legal nonconforming functional boathouse cannot be replaced in-kind, resulting in the undesired outcome of a boathouse not connected to the land and a potential navigational hazard; and,

WHEREAS, the County seeks to avoid such undesired outcome by amending the zoning ordinance to allow the in-kind replacement of a legal nonconforming pier with less than eighty-five percent (85%) functionality where such pier historically connects to a legal nonconforming boathouse that is functional.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that:

SECTION ONE: Chapter 190 of the *Talbot County Code* is hereby amended as follows:

KEY

Boldface.....Heading or defined term

Underlining .....Added by Bill

~~Strikethrough~~.....Deleted from law by Bill

* * * ..... Existing law unaffected

* * *

190-31.2 Piers and related facilities (community and private).

* * *

D. Extension, width, length, impedance of natural channel, repair or replacement piers.

1. New piers, or any portion thereof, including outboard pilings, finger piers, catwalks, boat or personal watercraft lifts, platform areas or floating docks shall extend 150 feet or less in length measured from the mean high-water. Notwithstanding any other section of this chapter, this limitation shall not be subject to modification by either a special exception or a variance.

2. The maximum width of a pier shall be six feet. Finger piers shall be limited to two for private piers and to the number of slips permitted in Subsection F.4 below for community piers and shall not exceed three feet in width nor be longer than 50% of the slip length.

3. Platform areas, including but not limited to, floating or fixed docks, launching facilities, or boat lift platforms attached to or associated with a pier shall not exceed a cumulative total area of:

   a. Two hundred square feet for private or community piers located along a joint property line shared by two adjacent lots. Additional area projecting from a pier, including finger piers, and catwalks, shall be no greater than three feet wide. Finger piers, catwalks and platform areas associated with boat lifts as described in Subsection A.1 above shall not exceed a cumulative total of 120 square feet for private piers and 120 square feet per side for a community pier serving two adjacent lots.

   b. Three hundred fifty square feet for community piers serving three or more lots, excluding finger piers, catwalks and platform areas associated with boat lifts as described in Subsection A.1 above.

4. In no case shall any parts of a pier exceed 1/2 of the distance from the mean high-water line to the center line of the body of water, said line herein established as the tributary harbor line.

5. In no case shall any parts of a pier impede the natural channel of the waterway.

6. When measuring the width of creeks or rivers with a total width of less than 500 feet, small and shallow coves along the shoreline shall not be used in determining the width of the waterway.

7. Replacement or extension of existing piers. The following requirements apply to piers completed prior to February 14, 2004.

   a. A functional pier, meeting the state standard of performing at least 85% of the designed purpose, may be replaced in kind, even if it exceeds the maximum allowed width, the one-hundred-fifty-foot extension into a body of water or the two-hundred-square-foot limit on additional area.

   b. Piers may be widened or lengthened and finger piers, platform areas, floating docks, and boat lifts may be added, only if the additional areas are in compliance with the requirements in Subsection D.1 through 6 above. Boat or personal watercraft lifts may be added to a legal, nonconforming pier, so long as they do not add platform area.

   c. A pier that does not meet the state standard of performing at least 85% of the designed purpose may be replaced beyond the 150 foot maximum allowed length standards provided in §190-31.2(D)(1), at a maximum width of 6 feet, to provide direct access to a legal nonconforming boathouse that remains functional and was historically accessed by the pier to be replaced.

* * *

SECTION TWO: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

SECTION THREE: The Publishers of the Talbot County Code, the Talbot County Office of Law, or the Talbot County Department of Planning and Zoning, in consultation with and subject to the approval of the County Manager, shall be authorized to make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation to the Code that is incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION FOUR: This Ordinance shall take effect sixty (60) days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. _____ having been published, a public hearing was held on _____ at ____ p.m. in the Bradley Meeting Room, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the third time.

ENACTED: _____

By Order _____
Susan W. Moran, Secretary

Pack -

Divilio -

Callahan -

Price -

Lesher -

EFFECTIVE DATE: _____