COUNTY COUNCIL

OF

TALBOT COUNTY, MARYLAND

2019 Legislative Session, Legislative Day No. : November 19, 2019

Bill No.: 1439

Expiration Date: January 23, 2020 *AS AMENDED*

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

A BILL TO AMEND CHAPTER 190 OF THE TALBOT COUNTY CODE (ZONING, SUBDIVISION AND LAND DEVELOPMENT) TO ALLOW INCREASED PIER SIZE FOR FISHERIES, AQUACULTURE AND HATCHERIES ACTIVITIES

By the Council: November 19, 2019

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, December 10, 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 INCREASED PIER SIZE FOR FISHERIES, AQUACULTURE AND HATCHERIES ACTIVITIES

WHEREAS, the Talbot County Code ("Code") generally limits the length of new private piers to one hundred fifty feet (150'), their width to six feet (6'), and any platforms to two hundred square feet (200 sq. ft.), *see* Code § 190-31.2 D. 1-3; and,

WHEREAS, the Code authorizes the replacement or extension of legal non-conforming private piers that exceed the limits described above, provided that certain criteria are met, *see* Code § 190-31.2 D. 7; and,

WHEREAS, a text amendment was submitted to the Planning Director in accordance with Code § 190-55 seeking an exemption from the private pier limitations above if the use of the pier served certain non-residential purposes, namely commercial fishing related uses; and,

WHEREAS, the Planning Director prepared a staff report and recommendation on the proposed text amendment for the Planning Commission; and,

WHEREAS, on November 6, 2019, the Planning Commission considered the proposed text amendment and made a recommendation to the County Council to adopt the amendment with certain changes; and,

WHEREAS, the County Council recognizes that the needs of commercial fishing related operations may be different from those of residential waterfront owners and finds that exempting certain commercial fishing related piers from the strict length, width, and area requirements in the current Code would serve the public purposes of promoting vibrant commercial fishing related operations in Talbot County and encouraging workplace and navigational safety through construction of adequately sized facilities.

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

SECTION ONE: That 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

* * *

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, unless otherwise authorized by Subsection D.9. below. 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.
8. Functional piers, meeting the state standard of performing at least 85% of the designed purpose prior to any damage sustained by a storm event or other natural cause, may be repaired or restored in accordance with § 190-50.4, Reconstruction and relocation, of nonconforming structures.
9. Piers meeting the requirements and standards listed below may be extended:
   a. Pier length, width and platform area limitations set forth in Subsection D.1-3 and 7 above may be exceeded for piers required to support one or more of the following uses:
      i. Fisheries activities facilities;
      ii. Ports and related facilities;
      iii. Aquaculture (retail);
      iv. Fish and game hatcheries; and
      v. Aquaculture (wholesale).
   b. The request for such extensions shall not exceed 200 feet in length.
   c. Such increases for Subsection D.9.a.i. through iv. above shall be justified to the satisfaction of the site plan approving authority and shall be shown on an approved site plan. Any increase shall not exceed the minimum adjustment necessary.

d. Extensions for piers supporting Aquaculture (wholesale) may be permitted consistent with this Subsection by the Board of Appeals as a special exception.

* * *

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. 1439 having been published, a public hearing was held on Tuesday, December 17, 2019 at 6:30 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: **December 17, 2019 *AS AMENDED***

By Order _____
Susan W. Moran, Secretary

Pack	-	Aye
Divilio	-	Aye
Callahan	-	Aye
Price	-	Aye
Lesher	-	Aye

EFFECTIVE DATE: **February 15, 2020**