COUNTY COUNCIL

OF

TALBOT COUNTY, MARYLAND

2020 Legislative Session, Legislative Day No. : June 9, 2020

Bill No.: 1446

Expiration Date: August 13, 2020

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 IMPROVE AND CLARIFY THE PROCESSES FOR LICENSURE AND OVERSIGHT OF SHORT TERM RENTALS IN THE COUNTY; AND TO AMEND THE STANDARDS FOR SAFETY FOR LICENSURE

By the Council: June 9, 2020

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, July 14, 2020 at 6:30 p.m. in Wye Oak Room, Talbot County Community Center, 10028 Ocean Gateway, 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) IMPROVE AND CLARIFY THE PROCESSES FOR LICENSURE AND OVERSIGHT OF SHORT TERM RENTALS IN THE COUNTY; AND TO AMEND THE STANDARDS FOR SAFETY FOR LICENSURE

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, 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

WHEREAS, Talbot County has regulated the rental of residences for limited periods for many years; and,

WHEREAS, in the Fall of 2018 in Bill 1401, the County Council significantly changed the process for regulation of such rentals under Chapter 190 of the Talbot County Code, including expanding the role of the Short Term Rental Review Board; and,

WHEREAS, the County Council asked the Short Term Rental Review Board to undertake a process to review the implantation of the changes imposed by Bill 1401 and make suggestions as to how to improve the licensure and enforcement process; and,

WHEREAS, the Short Term Rental Review Board held a series of public hearings and work sessions in August and September 2019 and made suggestions for changes to the County Council on November 14, 2019; and,

WHEREAS, the County Council held joint work sessions with the Short Term Rental Review Board in December 2019 and January 2020 to discuss and review such suggestions and discuss possible amendments or additions to such suggestions; and,

WHEREAS, the County Council believes that the below amendments balance the rights of primary residents for the quiet, peace and enjoyment of their homes with the property rights of short term rental property owners and improves the regulatory process for oversight of such rentals.

* * *

~~Chapter 24~~

~~Article V – Short-Term Rental Review Board~~

~~24-15 Board created.~~

~~The Short-Term Rental Review Board is hereby created.~~

~~24-16 Membership; composition; officers.~~

~~The Board shall consist of one member appointed by each Council member. The Planning Officer will act, ex officio, as a nonvoting member of the Board and as its Secretary. The Board will select its own Chairperson and adopt its own rules of procedure.~~

~~24-17 Duties and functions.~~

~~The Board shall have the duty of mediating and making recommendations to involved parties to resolve disputes over short-term rental licenses.~~

* * *

190-33.20. 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 months from November 10, 2018~~ shall be subject to a fine of not less than $500 and ~~shall~~ may not be entitled to apply for a short-term rental license for a period of not more than 12 months from the date of such violation.

* * *

C. OPERATING GUIDELINES

1. The maximum number of persons permitted to be on-site associated with any short-term rental shall be limited at all times to the lesser of 12 persons or two persons per bedroom in the ~~primary~~ dwelling that is rented, excluding infants under 18 months of age~~, and not including any bedrooms within an accessory dwelling~~.

* * *

6. During any short-term rental, no dwelling, grounds, or associated appurtenances shall be subleased or used for the following activities:

* * *

9. The short-term rental property shall comply with the following standards, which shall be referred to as the "Minimum Safety Standards". The short-term rental shall:

   a. Be equipped with fire extinguishers in the kitchen or any other area in which flammable or combustible materials are kept or stored;

   b. Be equipped with interconnected smoke alarms in each bedroom and within the immediate vicinity of the outside of each sleeping area;

   c. Have carbon monoxide monitors installed when fuel-fired appliances are present;

   d. Have rescue openings present in every bedroom. All rescue openings must have a minimum clear opening of five square feet, a minimum width of 20 inches and a minimum height of 24 inches;

   e. Have a primary emergency escape/egress. For such primary emergency escape exit, the stairwell should be a minimum of 30 inches wide at all locations to include handrail height and a minimum height of six feet from the stairway tread to the ceiling;

   f. Provide adequate automatic back-up illumination of any stairwells with a ceiling height between six feet and six feet-eight inches from stairway tread to ceiling in the event of an emergency or power failure; and

   g. Have a secondary escape exit meeting the above standards on each upper floor. However, if no such secondary escape exit meets the above standards, a secondary escape shall be provided at the furthermost point from the primary escape exit and may consist of an emergency roll-up ladder for use to exit a window.

~~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. All inspection reports shall be submitted to the Talbot County Department of Planning and Zoning on a form prepared and approved by the Planning Director. A third party certified building inspector may complete the form, or requests for County inspections must be accompanied by a $40 inspection fee. This fee may be reset and changed from time to time by the County Council through the fee schedule during the annual budget process.~~

10. The owner of the short-term rental property and/or the resident agent shall immediately investigate any complaint, from whomever received, of a violation of this section. Upon determining that a violation has occurred or is continuing to occur, the owner and/or the resident agent shall request that any occupant of the short-term rental property shall immediately cease and desist from any and all violations.

11. A short-term rental license holder must notify the County immediately if their resident agent no longer represents them. In addition, they must notify the County no later than 15 days after the end of such representation with the name and contact information for a new resident agent.

12. All conditions, restrictions, and limitations imposed by this chapter or by any regulation adopted by any governmental agency authorizing use or occupancy as a short-term rental, or the physical condition of a rental property shall be conspicuously included in a written lease signed by the parties. A copy of the lease shall be available on site and to Code Enforcement Officers upon request.

~~11.~~ 13. The applicant shall comply with all applicable codes, regulations, and requirements administered by the Talbot County Health Department regarding ~~potable~~ the drinking water supply well and on-site sewage disposal ~~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.

~~12.~~ 14. The short-term rental property shall comply with all conditions, restrictions and limitations imposed by all governmental entities and officials authorizing the use or occupancy of the short-term rental.

* * *

190-63 Short-Term Rental Licenses and Review Board

* * *

63.2 New license application process.

* * *

~~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.~~

~~C.~~ B. 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. A complete ~~The~~ application shall include, and the applicant shall provide, without limitation, the following:

* * *

8. ~~A satisfactory inspection report from a licensed inspector as to water quality and, if applicable, septic system operation.~~ The Talbot County Health Department shall review the results of the water sample that was collected from a certified water testing laboratory to ensure the well is free of bacteria. The Health Department shall conduct a site visit to ensure the terminal of the water supply well and well tag are in compliance with requirements of applicable Code of Maryland Regulations (COMAR). In addition, the site inspection will determine if the on-site sewage disposal system is operational with no visible signs of septic failure. In the event that the property is served by sewer, the applicant shall submit a letter of authorization from the County Engineer indicating the adequacy of the sewer to serve this proposed use. All reviews and findings shall be reported to the Planning Officer.

* * *

~~D.~~ C. Inspection of property. ~~Upon receipt of an application for a short-term rental license,~~ T~~t~~he applicant shall schedule an on-site inspection of the property with the Planning Director, ~~or~~ a Code Enforcement Officer or a third party International Code Council (ICC) certified building inspector in order to: 1) verify that the property complies with Minimum Safety Standards as noted in § 190-33.20.C.9 ~~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 conditions. In the event that the applicant selects a third party building inspection, the applicant shall provide a copy of such inspection report to the Department of Planning and Zoning on a form prepared and approved by the Planning Director. Such inspection may be no more than 45 days before the filing of the application. Requests for County inspections must be accompanied by a $40 inspection fee. This fee may be reset and changed from time to time by the County Council through the County's fee schedule adopted during the annual budget process.

~~E.~~ D. 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.

~~F. Notice of application. The applicant must provide notice of the short-term rental application as provided herein.~~

~~1. The applicant shall provide proof that the short-term rental application information has been provided to the following:~~

~~a. Owners of properties contiguous to the short-term rental property;~~

~~b. Owners of properties across a roadway, easement or right-of-way from the short-term rental property;~~

~~c. Owners of all other properties with a property line within 1,000 feet, including in line of site within 1,000 feet across waterways of the short-term rental dwelling; and~~

~~d. If applicable, a homeowners' association, property owners' association or covenant administrator for the development where the short-term rental property is located.~~

~~2. Notification shall be by mail, return receipt requested or other shipping carrier with adult signature required, to the address provided on the annual Talbot County tax bill or any other written means, such as e-mail or regular mail, provided receipt is confirmed in writing.~~

~~3. The notice shall include, at a minimum, information as listed in the example short-term rental notification letter in the application package. This information shall include: the applicant's name, contact information, including address, e-mail, and telephone number; twenty-four hour contact information in the event of any problem at the short-term rental property; contact information for the Code Compliance Officer or other designated County official; statement that a short-term rental application has been filed with the Talbot County Department of Planning and Zoning and that such application is available for public inspection; and state, if applicable, that a public hearing on the application will be held by the Short-Term Rental Review Board.~~

~~4. The notices required by this section shall be sent out within 21 days of filing the short-term rental application with the Talbot County Department of Planning and Zoning.~~

~~5. The applicant shall file a certificate of service with the Talbot County Department of Planning and Zoning promptly after sending out the required notices on a form prepared and approved by the Planning Director. The certificate shall be signed by the applicant; certify that~~

~~the required notices were sent out in accordance with this section; and include a list of all recipients and a copy of the notice that was sent out.~~

~~G.~~ E. Duration of new license. A new license shall be issued for a period of up to one year, expiring 12 months from the date of issuance unless otherwise specified by the Short-Term Rental Review Board.

~~H.~~ F. 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.

~~I.~~ G. Hearing and decision.

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

2. Notice of Public Hearing. The applicant must provide notice of the hearing as provided herein.

   a. The applicant shall provide proof of notice that the public hearing has been provided to the following:

      i. Owners of properties contiguous to the short-term rental property;

      ii. Owners of properties across a roadway, easement or right-of-way from the short-term rental property;

      iii. Owners of all other properties with a property line within 1,000 feet, including in line of sight within 1,000 feet across waterways of the short-term rental dwelling. However, if the property is in the VH, VM, VR, RR and TR zoning districts, notice shall only be provided to owners of all other properties with a property line within 500 feet, including in line of sight within 500 feet across waterways of the short-term rental dwelling;

      iv. If applicable, a homeowner's association, property owner's association or covenant administrator for the development where the short-term rental property is located; and

      v. If the short-term rental property has a right of access over a private road, all other owners of properties who also have a right of access to such road.

   b. Notification shall be by priority mail with delivery confirmation or other shipping carrier with adult signature required, to the address provided on the annual Talbot

County tax bill or any other written means, such as e-mail or regular mail, provided receipt is confirmed in writing.

c. The notice shall include, at a minimum, information as listed in the sample short-term rental notification letter in the application package. This information shall include: the applicant's name, contact information, including mailing address, e-mail address, and telephone number; 24 hour contact information in the event of any problem at the short-term rental property; contact information for the Code Compliance Officer or other designated County official; statement that a short-term rental application has been filed with the Talbot County Department of Planning and Zoning and that such application is available for public inspection; and state the date for the public hearing on the application before the Short-Term Rental Review Board.

d. The notice required by this section shall be sent out at least 21 days before the public hearing on the application.

e. The applicant shall file a certificate of service with the Talbot County Department of Planning and Zoning promptly after sending out the required notice on a form prepared and approved by the Planning Director. The certificate shall be signed by the applicant; certify that the required notices were sent out in accordance with this section; and include a list of all recipients and a copy of the notice that was sent out.

~~The hearing for new license applications shall be no sooner than 21 days from the date set forth in the certificate of service required under § 190-63.2.F.5 above.~~

3. The meeting shall also 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.~~

4. ~~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 recommendations before making a decision on the application.

5. ~~6.~~ The Board may impose conditions, restrictions, and limitations on the issuance of a new license that are reasonably related to addressing impacts of the proposed short-term rental. Such conditions may address, without limitation, the following:

a. Location and design of site features such as landscaping, screening, fencing or parking;

b. Design of outdoor lighting such as height, intensity or shielding of lighting fixtures;

c. Procedures and facilities for waste disposal;

d. Restrictions on hours of use for outdoor area on the property;

e. Distance of outdoor recreation areas to neighboring property lines; and

f. Duration of time prior to license renewal.

6. ~~7.~~ The Board shall approve an application for a new short-term rental license unless the Board finds that:

a. The license application is incomplete;

b. The applicant has made false, inaccurate, incomplete or incorrect statements in connection with the application;

c. The applicant has not complied with the application notice requirements;

d. Issuance of the license would unduly disturb the peace of the residents of the neighborhood in which the short-term rental will be located; and/or

e. There are other substantial reasons in the discretion of the Board as to why the license should not be issued, in which event the Board shall deny the license.

7. ~~8.~~ All of the Board's decisions shall be in writing and the hearings shall be recorded so as to allow transcription.

H. ~~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 30 days of the issuance of the written decision. Such appeal shall be on the record.

63.3 Renewal

A. Applications

* * *

3. The renewal application shall include, and the applicant shall provide, without limitation, any document required under § 190-63.2.~~C~~B above that has been revised or amended, to include; house rules, plan to scale, etc. In the event of any modification of the interior of the property that requires the issuance of a building permit or any modifications to the initially

issued permit, a new inspection to ensure compliance with § 190-33.20.C.9 shall be required as detailed in § 190-63.2.C;

4. The applicant must provide notice of the short-term rental renewal application as ~~required for a new license under § 190-63.2.F[4] above and,~~ as provided herein.

a. The applicant shall provide proof that the notice of application has been provided to the following:

i. Owners of properties contiguous to the short-term rental property;

ii. Owners of properties across a roadway, easement or right-of-way from the short-term rental property;

iii. Owners of all other properties with a property line within 1,000 feet, including in line of sight within 1,000 feet across waterways of the short-term rental dwelling. However, if the property is in the VH, VM, VR, RR and TR zoning districts, notice shall only be provided to owners of all other properties with a property line within 500 feet, including in line of sight within 500 feet across waterways of the short-term rental dwelling;

iv. If applicable, a homeowner's association, property owner's association or covenant administrator for the development where the short-term rental property is located; and

v. If the short-term rental property has a right of access over a private road, all other owners of properties who also have a right of access to such road.

b. Notification shall be by priority mail with delivery confirmation or by other shipping carrier with adult signature required, to the address provided on the annual Talbot County tax bill or by any other written means, such as e-mail or regular mail, provided receipt is confirmed in writing.

c. The notice shall include, at a minimum, information as listed in the sample short-term rental notification letter in the application package. This information shall include: the applicant's name, contact information, including mailing address, e-mail address, and telephone number; 24-hour contact information in the event of any problem at the short-term rental property; contact information for the Code Compliance Officer or other designated County official; statement that a short-term rental application has been filed with the Talbot County Department of Planning and Zoning and that such application is available for public inspection;

d. The notice required by this section shall be sent out within 21 days of the submittal of the renewal application.

e. The applicant shall file a certificate of service with the Talbot County Department of Planning and Zoning promptly after sending out the required notice on a form prepared and approved by the Planning Director. The certificate shall be signed by the applicant; certify that the required notices were sent out in accordance with this section; and, include a list of all recipients and a copy of the notice that was sent out.

* * *

190-78 Terms Defined

* * *

RESIDENT AGENT

A person authorized in writing by a short-term rental property owner to represent and act for the property owner in contacts with short-term renters, County employees, committees, boards, commissions, and the Council regarding matters regulated by the Talbot County Code.

* * *

SHORT-TERM RENTAL

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

* * *

TRANSIENT OCCUPANCY

Occupancy of a hotel or motel unit, inn, or bed-and-breakfast, ~~or licensed short-term rental~~ for short-term periods, not less than one night nor more than four months.

* * *

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 _____.

BY THE COUNCIL

Read the third time.

ENACTED: _____

By Order _____

Susan W. Moran, Secretary

Pack -

Divilio -

Callahan -

Price -

Lesher -

EFFECTIVE DATE: _____