

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2020 Legislative Session

Bill No. CB-37-2020

Chapter No. 32

Proposed and Presented by The Council Chair (by request – County Executive)

Introduced by Council Members Turner, Streeter, Davis, Anderson-Walker, Hawkins,
Ivey, Dernoga, Glaros, Taveras, Harrison and Franklin

Date of Introduction June 23, 2020

BILL

1 AN ACT concerning

2 Short-Term Rentals

3 For the purpose of modifying the provisions for licensing short-term rentals in the County and
4 modifying the adjudication process for violations of those regulations.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 5. BUSINESSES AND LICENSES.

7 DIVISION 8. SHORT-TERM RENTALS

8 Sections 5-174, 5-175.01, 5-175.04, 5-175.06, 5-
9 175.07, 5-175.08, and 5-175.09,

10 The Prince George's County Code
11 (2019 Edition).

12 By adding:

13 SUBTITLE 5. BUSINESSES AND LICENSES.

14 DIVISION 8. SHORT-TERM RENTALS

15 SECTION 5-175.10

16 The Prince George's County Code
17 (2019 Edition).

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, that Sections 5-174, 5-175.01, 5-175.04, 5-175.06, 5-175.07, 5-175.08, and 5-175.09
20 of the Prince George's County Code be and the same are hereby repealed and reenacted with the
21 following amendments:

SUBTITLE 5. BUSINESS AND LICENSES.
DIVISION 8. SHORT-TERM RENTALS.

* * * * *

Sec. 5-174. -Definitions.

In this Subtitle, the following words shall have the meaning indicated.

(a) **Booking service** means a reservation and/ or payment service provided by a person or entity that facilitates a short-term rental transaction between a host and a prospective short-term rental guest for which the person or entity collects fees in connection with the reservation or facilitates payment services between the host and guest.

(b) **Days** means calendar days.

(c) **Department** means the Department of Permitting, Inspections, and Enforcement.

(d) **Director** means the Director of the Department of Permitting, Inspections, and Enforcement.

(e) **Dwelling unit** means [one or more bedrooms providing permanent provision for sleeping.] any room or group of rooms forming a single unit that is used or intended to be used for living, sleeping, and the preparation and eating of meals, and that is located within a building that is wholly or partially used or intended to be used for living and sleeping by human occupants.

(f) **Host** means a legal owner of a residential dwelling unit and who provides or offers to provide all or part of a residential dwelling unit for short-term rental and has obtained a short-term rental license from Prince George's County. The host must provide proof of ownership with a copy of his or her Homestead Tax Credit filing.

(g) **Hosting platform ("Platform")** means a person or entity that facilitates a short-term rental by providing booking services through which a licensed host may lawfully provide a residential dwelling unit for short-term rental use.

(h) **Listing** means a complete list of all Prince George's County properties listed in the platform for the current and upcoming reporting periods, to include the host name, owner name, physical address, councilmanic district, municipality, license number, registration number, and rate charged for each short-term rental stay.

[h](i) **Nuisance** means the following:

- (1) An act or condition knowingly created, performed, or maintained on private

1 property that constitutes a local code violation and that:

2 (A) Significantly affects other residents of the neighborhood;

3 (B) Diminishes the value of neighboring property; and is injurious to public
 4 health, safety, or welfare of neighboring residents; or obstructs the reasonable use of other
 5 property in the neighborhood;

6 (2) A property where the tenant, owner, or other occupant has been convicted of
 7 violations of §10-201 or §10-202 of the Criminal Law Article for conduct occurring on, in, or in
 8 relation to the property; or

9 (3) A property to which police or other law enforcement agencies have responded to
 10 complaints or calls for service three (3) or more times within any 30-day period.

11 [(i)] **(j) Owner Occupied** means the host and legal owner of a residential dwelling unit who
 12 is present during the entire time of the short-term rental. Owner Occupied short-term rentals shall
 13 not be utilized by a short-term rental guest for more than 180 days per calendar year.

14 [(j)] **(k) Permanent resident** means an individual who is domiciled in Prince George's
 15 County, Maryland, maintains a place of abode in Prince George's County for 180 or more days
 16 during the year and is the individual who owns the property and obtains the homestead tax credit
 17 at that address. For purposes of this Subtitle, a host may have only one (1) permanent address,
 18 which is the address the host uses to obtain the homestead credit.

19 [(k)] **(l) Short-term rental** means a residential dwelling unit occupied by a short-term
 20 rental guest, other than a permanent occupant, for fewer than 31 consecutive days and no more
 21 than 90 days per calendar year, where a host receives monetary compensation for such
 22 occupancy, if the owner is not present during the rental. A short-term rental may be occupied by
 23 a short-term rental guest for no more than 180 days per calendar year, if the host is present
 24 during the short-term rental. A short-term rental provider shall not combine time limits for short-
 25 term rentals. The maximum allowable days for a short-term rental are 180 calendar days,
 26 provided all requirements are met for that time frame. A short-term rental is a tourist home that is
 27 an accessory use to a dwelling, but does not include a hotel, motel, inn, boarding house, group
 28 residential facility, and fraternity or sorority house.

29 [(l)] **(m) Short-term rental guest** means a transient who occupies, or has the right to
 30 occupy, a lawfully licensed short-term rental for a period of 30 days or less during any one
 31 continuous stay. This does not include a hotel, motel, inn, boarding house, group residential

1 facility, fraternity or sorority house.

2 [(m)] (n) **Short-term rental provider** means a licensed host who lawfully offers for rent a
3 short-term residential rental and does not include a hotel, motel, inn, boarding house, group
4 residential facility, and fraternity or sorority house.

5 * * * * *

6 **Sec. 5-175.01. - License Application for Short-Term Rentals; Hosts**

- 7 (a) The Department may issue an annual short-term rental license to an eligible applicant.
- 8 (b) Each short-term rental license expires annually on the anniversary of its issuance.
- 9 (c) Fraud, misrepresentation, false statement and inaccuracies in the application or
10 supporting documents shall be grounds for immediate revocation or denial of the short-term
11 rental license. All the requirements of this Subtitle shall be continuously maintained
12 throughout the duration of the license. Failure to do so shall be grounds for immediate
13 revocation or denial of the short-term rental license.

14 (d) Shall pay all applicable fees associated with the application and approval of the license,
15 including the initial \$150 licensing fee, thereafter there will be an annual fee of \$150;

16 (1) The fees are subject to change; any change in the licensing fee shall be prescribed
17 in the Table of Fees.

18 (e) An applicant for a short-term rental license shall:

19 (1) Shall obtain and attest to liability insurance of at least \$1,000,000.

20 a. May utilize a platform's liability insurance if the liability insurance is at least
21 \$1,000,000 and is approved by the Department.

22 [(2) Provide a copy of current and valid liability insurance of at least \$1,000,000;]

23 [(3)] (2) Attest and ensure that each short-term rental unit has a working smoke
24 detector and carbon monoxide detector in every bedroom, sleeping area and on all habitable
25 floors;

26 [(4) Provide a picture to the Department as proof of the required smoke detectors and
27 carbon monoxide detectors;]

28 [(5)] (3) Attest and ensure that each short-term rental unit has properly maintained,
29 serviced, and charged fire extinguishers mounted in every bedroom, sleeping area and on
30 all habitable floors in compliance with the Prince George's Fire Safety Code;

31 [(6) Provide a picture to the Department as proof of the required fire extinguishers;]

1 [(7)](4) Attest and ensure that each short-term rental has a posting of the Owner's
 2 emergency contact information on the interior of the rental, a floor plan that indicates fire
 3 exits and escape routes that is conspicuously placed on the interior portion of the main
 4 entrance and in each room where there are sleeping quarters in the short-term rental;

5 [(8)] (5) Provide a picture to the Department as proof of the conspicuously placed
 6 posting of the emergency contact information on the interior of the rental, a floor plan that
 7 indicates fire exits and escape routes;

8 [(9)] (6) Attest and ensure the short-term rental is in compliance with all applicable
 9 laws and codes including but not limited to Subtitle 4 of the Prince George's County Code,
 10 all applicable property maintenance, electrical, plumbing and building codes;

11 [(10)] (7) Attest and ensure that notification has been provided to homeowner
 12 associations, condominium associations, common ownership communities, cooperatives,
 13 and, where applicable, municipalities where the short-term rental is located;

14 [(11)] (8) Attest and ensure compliance with the requirements of homeowner
 15 associations, condominium associations, common ownership communities, and
 16 cooperatives where the short-term rental is located;

17 [(12)] (9) Attest and ensure that the short-term rental has provided at least one (1) off
 18 street parking space for every three (3) overnight guests;

19 [(13) Provide proof of availability of off-street parking for the short-term rental;]

20 [(14)] (10) [Provide proof of] Attest to the host's intent to apply for the short-term
 21 rental license has been provided to the following neighbors and/or individuals in the
 22 adjacent homes including but limited to:

23 (A) The neighbors that are to the immediate left, of the short-term rental property;

24 (B) The neighbors that are to the immediate right, of the short-term rental
 25 property;

26 (C) The neighbors that are in front of the short-term rental property;

27 (D) The neighbors that are behind the short-term rental property;

28 (E) The Department shall provide the approved notification letter for short-term
 29 license applicants;

30 [(15)] (11) Attest and ensure that the short-term rental is the permanent residence of the
 31 host;

1 [(16)] (12) Attest and ensure the short-term rental has two (2) outdoor trash and one (1)
2 recycling receptacles with tight fitting lids;

3 [(17)] (13) [Provide proof of] Attest to ownership of the short-term rental property; [a
4 copy of the host's homestead property tax credit for the location of the short-term rental;]

5 [(18)] (14) Attest and ensure that the property has no outstanding taxes or liens and the
6 property has no code violations;

7 [(19)] (15) Attest and ensure that accurate and current contact information of the owner
8 of the short-term rental is provided on the application; the contact information shall include
9 the following:

- 10 (A) The host's primary physical mailing address;
- 11 (B) The host's cell phone number;
- 12 (C) The host's email address;

13 [(20)] (16) Attest and ensure that accurate and current information of an individual that
14 will serve as the emergency contact, other than the host, who resides within Prince George's
15 County or within 25 miles if the emergency contact resides outside of Prince George's
16 County. The emergency contact is responsible for responding to the short-term rental for
17 any issues that require immediate attention. This information shall be provided on the
18 application; the contact information shall include the following:

- 19 (A) The individual's primary physical mailing address;
- 20 (B) The individual's cell phone number;
- 21 (C) The individual's email address;

22 [(21)] (17) Provide, within five (5) business days, updates to the contact information
23 immediately or risk having the license revoked or denied;

24 [(22)] (18) Provide a list of all the licensed platforms the applicant intends to utilize;

25 [(23)] (19) Attest and ensure that the rules, as approved by the Department per Section
26 5-175.06(a) regarding short-term rental guests are posted on or by the main entrance used
27 by the transients pursuant to Section 5-175.06 of this Division.

28 (f) The Department may require evidence of any of the above requirements in any form or
29 manner it directs.

30 * * * * * * * *

31 **Sec. 5-175.04 Short-Term Rental Hosting Platform License; Requirements**

1 (a) Short-term rental hosting platforms shall be registered with the Department.

2 (b) Platforms shall pay an annual licensing fee of \$2,500 to lawfully operate in Prince
3 George's County, Maryland.

4 (1) The fees are subject to change; any change to the annual \$2,500 licensing fee shall
5 be prescribed in the Table of Fees.

6 (c) Platforms shall require any short-term rental host to submit a copy of the host's rental
7 license or 90 day pending application certificate to the platform, prior to the rental being
8 listed on the platform.

9 (d) Platforms shall electronically provide the following [information] data to the
10 Department in the method prescribed by the Department on [an annual] a monthly basis.
11 The [information] data shall be submitted to the Department [by January 1] on or before the
12 last calendar day of the month and shall include data from the preceding month and
13 preceding year. The required [information] data is as follows:

14 (1) The total number of short-term rentals listed on the platform during the applicable
15 reporting period;

16 (2) A complete listing of all Prince George's County properties listed in the platform
17 for the current and upcoming reporting periods;

18 (3) The total number of nights that each listing on the platform was rented to transients
19 during the applicable reporting period.

20 (4) Address of the Host site;

21 (5) Municipality;

22 (6) Amount paid by the Host;

23 (7) Department of Permitting, Inspections, and Enforcement Short-term rental license
24 number; and

25 (8) Total taxes charged, including Special Tax area payments if applicable, and paid
26 for each stay.

27 (e) All platforms shall remit all hotel taxes, including but not limited to those collected by
28 the short-term rental provider or applicant, as outlined in this section and Subtitle 10
29 Division 8 of the Prince George's County Code and:

30 (1) Such quarterly payments shall be made on or before the last days of April, July,
31 October and January in each year. They shall cover the amounts collected during the three

(3) months immediately preceding the months in which reports, and remittances are required. Such quarterly payments shall be made on or before the last days of April, July, October and January in each year. They shall cover the amounts collected during the three (3) months immediately preceding the months in which reports, and remittances are required. The payments shall be made to the Department of Finance

(2) Prince George's County, with approval of the governing body, may agree to an alternative method of tax collection with the Platform. However, if after the expiration of the term of the agreement, Prince George's County may require remittance of hotel taxes as outlined in Subtitle 10 Division 8 of the Prince George's County Code and Section 5-175.04(e)(1).

* * * * *

Sec. 5-175.06. - Prohibited Acts, Enforcement and Penalties; Platforms.

(a) It shall be unlawful for a platform to list a short-term rental or for any person engaged in the business of short-term rentals to list on any platform when the following occurs:

(1) Short-term rentals that rent, or offers to rent that unit or any portion thereof, by the hour or for any period of fewer than 24 consecutive hours;

(2) Short-term rentals that rent, or offers to rent that unit or any portion thereof, more than once within any consecutive 24-hour period measured from the commencement of one rental to the commencement of the next;

(3) Advertise an hourly rate or any rate for any short-term rental period of fewer than 24 consecutive hours;

(4) Short-term rentals that rents, offers to rent that unit or any portion thereof, for multiple bookings or rentals for the same or overlapping time periods;

(b) If any of the acts prohibited by this section occurs, the Director may:

(1) issue an administrative citation as that term is defined by Subtitle 13, Division 1, Subdivision 1 of this Code,

(2) issue a violation notice,

(3) suspend the platform's short-term rental license, or

(4) revoke the platform's short-term rental license.

1 (c) If a platform collects a fee for booking services in connection with an unlicensed
2 host, the platform shall be liable and subject to civil fines of \$1,000 per violation. The civil fine
3 may be imposed through either a violation notice or an administrative citation.

4 (d) If a platform collects a fee for booking services in connection with someone who
5 does not have a 90-day certificate from the Department regarding a filed and complete application,
6 the platform shall be liable and subject to civil fines of not less than \$1,000 per violation. The civil
7 fine may be imposed through either a violation notice or an administrative citation.

8 (e) An administrative citation or violation notice issued pursuant to this Division shall
9 contain, at a minimum, all of the information required by Section 13-1125 of this Code and shall
10 be served in accordance with the provisions of that Section.

11 **Sec. 5-175.07. - Enforcement and Penalties; Hosts.**

12 (a) The short-term rental license for a host is a privilege and not a right. A short-term
13 rental license may be suspended or revoked at any time or not renewed based upon non-
14 compliance with the requirements of this Division and the Prince George's County Code.

15 (b) A short-term rental license may be suspended or revoked due to a citation, corrective
16 order, or violation notice citing violations of the Prince George's County Code, including but not
17 limited to violations of the building, electrical, plumbing or zoning codes.

18 (c) The Department has the right to enter and inspect the short-term rental with reasonable
19 notice to the host. Failure to provide timely access may serve as a basis to issue a violation notice
20 or administrative citation, or to suspend or revoke a license.

21 (d) The Department may immediately issue a violation notice or administrative citation,
22 or may suspend or revoke a short-term rental license if [it] the operation of the short-term rental
23 constitutes a nuisance as defined in Section 5-174 or because of any adverse effect to public
24 health, safety, and the general welfare, including excessive noise, traffic, physical activity, public
25 safety, or other good cause.

26 (e) The Department may immediately issue a violation notice or administrative citation or
27 may suspend or revoke a license if under the Building Code a stop work or stop use order has
28 been issued to the address.

29 (f) All enforcement actions and penalties are at the Director's discretion, based upon the
30 requirements of this Division.

1 (g) If a short-term rental host license is suspended or revoked, Department shall notify in
2 writing the host and all platforms on which the host currently lists.

3 (h) In addition to any other penalty provided by law, any individual who violates this
4 Division shall be subject to a civil fine of not less than \$1,000. The civil fine may be imposed
5 through either a violation notice or an administrative citation.

6 (i) An administrative citation or violation notice issued pursuant to this Division shall
7 contain, at a minimum, all of the information required by Section 13-1125 of this Code and shall
8 be served in accordance with the provisions of that Section.

9 **Sec. 5-175.08. - Appeals from determinations of Director.**

10 (a) Any person aggrieved by an act or determination of the Director pursuant to this
11 Division, including, but not limited to, the issuance of a violation notice or administrative
12 citation, or the suspension or revocation of any license, may appeal such act or determination to
13 the [Prince George's County Board of Administrative Appeals] Administrative Hearing Unit
14 established by Subtitle 13, Division 15 of this Code within ten (10) calendar days after receipt of
15 notice of the act or determination of the Director. The Administrative Hearing Unit shall hold a
16 hearing and the proceedings shall be conducted in accordance with the procedures outlined in
17 Sections 13-1134 through 13-1151 and Section 13-1153 through 13-1154 of this Code. The
18 Director shall have the initial burden to establish the basis for the determination from which the
19 appeal was taken. The appellant shall have the burden to establish by a preponderance of the
20 evidence that the Director has misconstrued or wrongly interpreted the intent and meaning of this
21 Code. The Administrative Hearing Unit shall determine only whether there was substantial
22 evidence for the Director to take the enforcement action from which the appeal was taken. The
23 Administrative Hearing Unit may not substitute its judgment for that of the Director.

24 (b) The [Board] Administrative Hearing Unit may reverse, modify or remand the decision
25 of the Director only if the decision of the Director is clearly erroneous, or arbitrary and
26 capricious, or unsupported by any substantial evidence. Every decision of the Administrative
27 Hearing Unit shall be given in writing within thirty (30) days of the hearing. A copy of each such
28 decision shall be promptly filed with the Director and a copy shall be sent by U.S. first-class
29 mail, sent electronically, or otherwise delivered to the appellant. An appellant aggrieved by a
30 decision of the Administrative Hearing Unit may seek reconsideration of the matter in
31 accordance with Section 13-1128 of this Code and all provisions of that Section shall apply to

1 the disposition of the application for reconsideration. The decision of the Hearing Administrator
 2 on an application for reconsideration shall constitute the final decision of the Administrative
 3 Hearing Unit. Any party who, after having exhausted all administrative remedies available, is
 4 aggrieved by a final decision of the Administrative Hearing Unit may seek judicial review of that
 5 decision in the Circuit Court for Prince George's County, Maryland, in accordance with the
 6 Maryland Rules. The filing of a petition for judicial review does not stay an order of the
 7 Administrative Hearing Unit, unless a stay is granted by the circuit court.

8 **Sec. 5-175.09 [Appeals from the Board of Administrative Appeals] Judicial Review**

9 Any party aggrieved by a decision of the [Board of Appeals] Administrative Hearing Unit
 10 pursuant to this Division may [appeal] seek judicial review of [that decision to] by petition to the
 11 Circuit Court for Prince George's County, Maryland. The appeal shall proceed in accordance
 12 with the provisions of Title 7 Maryland Rules of Procedure.

13 SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's
 14 County, Maryland, that Section 5-175.10 of the Prince George's County Code be and the same is
 15 hereby added:

16 **Sec. 5-175.10 Exemptions.**

17 Notwithstanding other provisions of the Prince George's County Code, short-term rental
 18 licensing requirements within Prince George's County, Maryland shall not restrict or apply when
 19 a buyer or seller of real property enters into a Settlement Occupancy Agreement and shall be
 20 exempt from the licensing requirements set forth in this Division.

21 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
 22 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
 23 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
 24 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
 25 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
 26 Act, since the same would have been enacted without the incorporation in this Act of any such
 27 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
 28 or section.

29 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
 30 calendar days after it becomes law.

Adopted this 21st day of July, 2020.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Council Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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