



STAFF REPORT

To: Mayor Buckley
From: Teresa Sutherland, City Manager
Subject: O-26-19 – Rental Unit and Short Term Residential Rental Licenses
Date: June 17, 2019

STAFF REPORT FROM DEPARTMENT OF PLANNING AND ZONING

The ordinance modernizes the city rental license requirements by considering and providing requirements for short-term rentals, i.e., “Airbnb,” and “VRBO” rentals. This ordinance makes the following significant changes to the rental unit license requirements:

- Makes it legal to rent a room while the owners are present at the dwelling.
- Makes the fire safety requirements the same for both standard rentals and short-term rentals.
- Limits the number of properties one owner may rent.
- Limits the length of time an owner may rent while absent to 120 days per year.
- Limits the length of time a short-term rental may be rented to a single tenant to 90 days, which helps clarify lead certification requirements for city staff.
- Reorganizes Chapter 17.44 for clarity.

This legislation makes owner-occupied rentals legal, creating a new subset of dwellings that will become licensed and inspected by the City. Currently, many of these rentals do not have licenses. Once codified, a substantial portion of the rentals should come into license compliance. Staff expects several hundred new license applications associated with the ordinance.

The impact on the Department of Planning and Zoning includes increased administrative time to process applications as well as time to conduct additional inspections. With the current rental unit inspection total close to 9,000 units, an addition of 500 units represents a 4.5% growth in inspection numbers. The anticipated addition of another inspector position in the FY2020 budget should be sufficient to cover the additional inspections, and no additional administrative staff is needed.

A suggested list of amendments from Planning and Zoning follows the City Manager’s comments.

Prepared by: John Menassa and Sally Nash, Department of Planning and Zoning

COMMENTS FROM THE CITY MANAGER

I have reviewed this proposed ordinance and noted the following:

- (1) The first sentence in Section 17.44.040 D has contradictory language (page 4, lines 33-38).

The first part of the sentence clearly states “NO RENTAL OPERATING LICENSE SHALL BE RENEWED UNLESS AN APPLICATION HAS BEEN MADE AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION OF THE CURRENT RENTAL OPERATING LICENSE. . . .” However, the second part of the sentence provides, “. . . A PENALTY FEE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL SHALL ACCOMPANY ANY APPLICATION FILED LESS THAN THIRTY DAYS PRIOR TO EXPIRATION.”

Either someone who applies for renewal less than 30 days before the expiration of their current license *may* get a renewed license (by paying a “penalty fee”), or they *may not* get a renewed license at all (as specified in the first part of the sentence).

Also, a “penalty fee” is a fine, not a fee.

I recommend amending this section to state, “ANY APPLICATION TO RENEW A RENTAL OPERATING LICENSE FOR WHICH AN APPLICATION IS NOT RECEIVED AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION OF THE CURRENT RENTAL OPERATING LICENSE IS SUBJECT TO AN ADDITIONAL FEE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.”

- (2) Section 17.44.090 A of the existing Code provides that if the Police Department makes three or more documented calls in a 30-day period for disorderly conduct or disturbing the peace, or if a licensee violates any provision of Chapter 17.40 or 17.44, the Director of the Department of Planning and Zoning may order the licensee to show cause before the Building Board of Appeals as to why the operating license for the subject property should not be suspended.

Section 17.44.090 D of the existing Code provides that the Director shall obtain such information as necessary to determine whether to proceed with enforcement action under 17.44.090 “upon receipt of a complaint under this section or upon a recommendation of the Police Chief to take action under this section.”

Under the proposed ordinance, in Section 17.44.060 E (page 6), the Director would be prohibited from taking enforcement action unless the Police Chief recommended the Director do so, even if the Director received a complaint of noncompliance with the building codes in 17.40 and 17.44 that have nothing to do with the Police Department.

I recommend amending this ordinance to match the existing Code language, giving the Director the authority to make a determination whether to proceed with enforcement action upon recommendation of the Police Chief or upon receipt of a complaint of noncompliance with the building codes in 17.40 or 17.44.

The language in Section 17.44.090 A, 17.44.090 C, and 17.44.110 appear contradictory.

- 17.44.090 A provides that only an “*individual person*” having a principal residence or a “*person*” owning or renting a premises with dwelling units above commercial or maritime uses may apply for a short-term rental license.
- 17.44.110 defines “*person*” to mean *only* an individual, and not a government entity, a receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, and not a partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.
- 17.44.090 C says “*A LEGAL ENTITY HAVING A PRINCIPAL OFFICE IN THE CITY . . . SHALL NOT BE ISSUED OR RENEWED MORE THAN ONE SHORT-TERM RENTAL OPERATING LICENSE FOR A PREMISES THAT IS NOT THE OWNER’S PRINCIPAL OFFICE.*”

How can a “legal entity” with a principal office in the City be issued a short-term rental license if a license may only be issued to a “person,” and the definition of “person” excludes any kind of legal entity that is not an individual?

- (3) Section 17.44.090 A allows a person “*owning or renting*” a premises with dwelling units above commercial and maritime uses to apply for a short-term rental license (emphasis added).

Is it the sponsors’ intent to allow those who rent, but do not own, dwelling units above commercial and maritime uses on the ground floor to obtain short-term rental licenses? If not, the word “or” is not appropriate.

Is there any limit on the number of licenses that may be issued to a person renting dwelling units above commercial or maritime uses on the ground floor? Section 17.44.090 C limits only the number of short-term rental licenses that may be issued to an *owners*.

- (5) It is not clear how or whether the provisions that apply to *owners* of rental properties in Sections 17.44.020 and 17.44.060 would apply to a person *renting* a premises with dwelling units above commercial or maritime uses who applies for a short-term rental license.

SUGGESTED AMENDMENTS FROM THE DEPARTMENT OF PLANNING AND ZONING

17.44.010

- B. ANY PERSON WHO RENTS OR CONTINUES TO RENT FOR OCCUPANCY OR USE ANY UNLICENSED PREMISES ~~UPON CONVICTION~~ IS GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. SUCH FINE SHALL BE ASSESSED ON A PER UNIT PER DAY BASIS, AFTER AN INITIAL FIFTEEN CALENDAR DAY NOTIFICATION PERIOD TO THE OWNER, UNTIL A RENTAL OPERATING LICENSE HAS BEEN OBTAINED, REISSUED OR REVALIDATED.

17.44.030

- A. (1) A STANDARD RENTAL OPERATING LICENSE MAY BE APPLIED FOR AND ISSUED FOR ANY ~~DWELING UNIT OR THE ENTIRE~~ PREMISES RENTED FOR OCCUPANCY OR USE PURSUANT TO AN AGREEMENT, WRITTEN OR ORAL, WHERE THE PREMISES DOES NOT QUALIFY FOR ANY OTHER TYPE OF RENTAL OPERATING LICENSE AND IS OTHERWISE RENTED OR USED FOR UP TO ONE OR MORE YEARS.

17.44.040

- D. ~~NO RENTAL OPERATING LICENSE SHALL BE RENEWED UNLESS AN APPLICATION HAS BEEN MADE AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION OF THE CURRENT RENTAL OPERATING LICENSE, AND A PENALTY FEE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL SHALL ACCOMPANY ANY APPLICATION FILED LESS THAN THIRTY DAYS PRIOR TO EXPIRATION.~~ ANY APPLICATION TO RENEW A RENTAL OPERATING LICENSE FOR WHICH AN APPLICATION IS NOT RECEIVED AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION OF THE CURRENT RENTAL OPERATING LICENSE IS SUBJECT TO AN ADDITIONAL FEE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

17.44.060

- E. THE DEPARTMENT, UNDER THE DIRECTION OF THE DIRECTOR, SHALL ENFORCE THE PROVISIONS OF THIS SECTION. UPON RECEIPT OF A COMPLAINT UNDER THIS SECTION OR UPON A RECOMMENDATION BY THE CHIEF OF POLICE TO TAKE ACTION UNDER THIS SECTION, THE DIRECTOR OR HIS OR HER DESIGNEE SHALL OBTAIN SUCH INFORMATION AS NECESSARY TO DETERMINE WHETHER TO PROCEED UNDER SUBSECTION B OF THIS SECTION.

17.44.060

- G. ANY PERSON WHO VIOLATES THIS SECTION ~~UPON CONVICTION SHALL BE~~ IS GUILTY OF A MUNICIPAL INFRACTION SUBJECT TO A FINE SET BY RESOLUTION OF THE CITY COUNCIL.

17.44.080

- B. ANY PERSON WHO FAILS TO VACATE OR CAUSE TO VACATE THE PREMISES AFTER DUE NOTICE BY THE DIRECTOR IS ~~UPON CONVICTION~~ GUILTY OF A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL;

17.44.080

- C. THAT THE OWNER ~~UPON CONVICTION~~ IS GUILTY OF A MISDEMEANOR AS ESTABLISHED IN SECTION 17.40.890;

17.44.090 - SHORT-TERM RENTALS.

- A. SHORT-TERM RENTAL OPERATING LICENSES MAY BE APPLIED FOR BY AND ISSUED AND RENEWED TO EITHER AN INDIVIDUAL PERSON HAVING A PRINCIPAL RESIDENCE, AS FURTHER DEFINED IN SECTION 17.44.110, IN THE CITY, OR A PERSON OWNING ~~OR RENTING~~ A PREMISES WITH DWELLING UNITS ABOVE COMMERCIAL OR MARITIME USES ON THE GROUND FLOOR.

17.44.090

- G.(1)B. FOR GREATER THAN 120 CUMULATIVE DAYS PER YEAR WHERE THE ENTIRE PREMISES ~~OR DWELLING UNIT~~ IS RENTED WITH THE ABSENCE FROM THE PREMISES OF THE OWNER;

17.44.110 PRINCIPAL RESIDENCE.

“PRINCIPAL RESIDENCE” MEANS THE PREMISES DESIGNATED BY A PERSON FOR THE LEGAL PURPOSES OF VOTING, OBTAINING A DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, AND FILING INCOME TAX RETURNS. IN DETERMINING THE PRINCIPAL RESIDENCE, THE DIRECTOR MAY RELY ON THE LISTING OF A PREMISES AS A PRINCIPAL RESIDENCE ON THE ACCOUNT ASSOCIATED WITH THE PROPERTY AS MAINTAINED BY THE MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION. FOR PURPOSES OF CHAPTER 17.44, A PERSON MAY ONLY HAVE ONE PRINCIPAL RESIDENCE IN THE CITY OF ANNAPOLIS. ~~FOR PURPOSES OF THIS DEFINITION, “PERSON” SHALL ONLY MEAN AN INDIVIDUAL, AND SHALL NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE, ANY COUNTY, MUNICIPAL CORPORATION OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS, OR A RECEIVER, TRUSTEE, GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY OR REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.~~