

TOWN OF BATH

ORDINANCE 2024-03-8

ADDING TO CHAPTER 18. BUSINESSES AND BUSINESS REGULATIONS.

ARTICLE V. BED AND BREAKFAST FACILITIES, AIRBNB AND OTHER SHORT-TERM RENTAL FACILITIES.

Sec. 18-132. Purpose

The purpose of the regulations set forth in this ordinance is to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 18-133. Definitions

As used in this article the following words, terms and phrases, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

"Bed and breakfast facility" includes a bed and breakfast homestay establishment or bed and breakfast inn.

"Bed and breakfast homestay establishment" shall mean a residential or commercial property where short-term lodging is provided that contains no more than five guest rooms and where breakfast service may be provided to overnight guests only. The property may be rented out to multiple short-term lodging groups at a time.

"Bed and breakfast inn" shall mean a resident managed residential or commercial property where short-term lodging is provided that contains no more than fifteen guest rooms and where breakfast service may be provided to overnight guests only. The property may be rented out to multiple short-term lodging groups at a time.

"Group" shall mean a unit of person(s) that are together under a single reservation. Licensee shall mean a person issued a bed and breakfast facility or short-term rental facility license.

"Designated operator" shall mean the operator of a bed and breakfast facility or short-term rental facility who will be available in-person or by phone at all times the rental is in use.

"Short-term rental" shall mean a residential dwelling unit(s) that is rented out for compensation on a temporary basis for a period of less than thirty consecutive days.

"Short-term rental facility" includes a short-term rental type I, short term rental type II, or short-term rental type III.

"Short-term rental type I" shall mean an owner-occupied residential property where short-term lodging is provided to only one group at a time per dwelling unit. Nonconforming single-family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The owner must reside in the primary structure on the property and be present at the property for the duration of any short-term rental.

"Short-term rental type II" shall mean a single family or duplex residential property where short-term lodging is provided to only one group at a time per dwelling unit. Nonconforming single-family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The property is not part of a multi-family residential use. The owner does not reside on the property or is not present at the property for the duration of any short-term rental.

"Short-term rental type III" shall mean a residential property or multi-use commercial property where short-term lodging is provided to only one group at a time per dwelling unit. The owner does not reside on the property or is not present at the property for the duration of any short-term rental.

Sec. 18-134. Bed and breakfast facility or short-term rental facility license required.

It shall be unlawful to operate a bed and breakfast facility or a short-term rental facility:

1. Without a bed and breakfast facility or short-term rental facility license;
or

2. In violation of any provision of a bed and breakfast facility or short-term rental facility license, this article, or any other applicable Town ordinance or other law.

Sec. 18-135. License application and review.

- A. To obtain a license for a bed and breakfast facility or a short-term rental facility, a person must submit an application on a form provided for that purpose to the Town. The application must contain the following:
 1. The name, street address, mailing address, email address, and telephone number of the applicant, the owner, and the designated operator of the bed and breakfast facility or short-term rental facility. The applicant must assign a "designated operator" who shall be available at all times the rental is in use.
 2. If the applicant or owner is a partnership, a corporation, or limited liability company, the application shall list the names of all partners, directors, members, and officers, as applicable, of the applicant and the owner
 3. A scaled site plan that shall include property lines, existing structures, proposed signage, proposed and existing site improvements such as parking, fences, landscaping, etc.
 4. A non-refundable license fee for the amount established.
 5. Proof that the applicant has no delinquent hotel motel occupancy taxes due on the property.

Sec. 18-136. Length of license; renewal.

- A. A bed and breakfast facility license or short-term rental facility license shall be valid for a maximum period of one year from the date of issuance through the annual renewal date of 1, July and may be renewed at that time by applying in accordance with section 18-155.
- B. Bed and breakfast facilities or short-term rental facilities as of July 1, 2024 are required to obtain a license under the provisions of this article.

Sec. 18-137. Fees.

An annual license fee of two hundred dollars (\$200.00) will be charged at time of issuing the license and at the time of renewal. The town council shall set the fees for the license and renewal. License fee is non-refundable and will not be prorated for periods of less than 12 months.

Sec. 18-138. Operation of a bed and breakfast facility or short-term rental facility.

- A. The licensee shall comply with the noise requirements set forth in Chapter 50 of this code.
- B. The licensee shall comply with all rules and standards necessary for the safeguarding of life and property as set forth in the West Virginia State Building Code (WVSBC) §15A-11-5. This includes, but is not limited to, operating smoke detectors, at least one operable egress window per bedroom, an evacuation plan posted conspicuously in each sleeping area, repair of any exposed wiring, water heater inspection, required safety measures for pools (if applicable), and exterior stairwells (if applicable).
- C. Functions such as meetings, receptions, weddings and other social events provided for compensation or held by guests are not permitted as part of the bed and breakfast facility or short-term rental facility unless an events permit has been issued by the Town.
- D. The designated operator shall be available at all times the property is being rented. Contact information will be furnished to owners of real property within two hundred feet of the bed and breakfast facility or short-term rental facility by the Town. Also, a sign must be posted conspicuously in the common area of each unit and will contain the following information:
 - 1. The name and contact information of the owner and/or designated operator;
 - 2. The license number of the bed and breakfast facility or short-term rental facility; and
 - 3. The occupancy limits and requirements set forth in the license.

- E. The license number shall be included on the business website and primary booking engine for the bed and breakfast facility or short-term rental facility.

Sec. 18-139. Additional requirements and restrictions for bed and breakfast facilities or short-term rental facilities.

- A. *Parking.* Operator must provide parking information for guests taking into consideration the availability of both paid and unpaid parking as well as weekend parking, reserved on-site parking (if applicable) and permitted use of private and public lots.
- B. *Signs.* The size of the sign shall not exceed six square feet in area. The maximum height shall be 3 feet. The front yard setback shall be three feet from the property line.
- C. *Lighting.* All lighting must be directed toward the establishment and not at adjacent properties.
- D. *Occupancy.* The maximum number of adults allowed to reside in any bed and breakfast facility or short-term rental facility is two adults per bedroom plus two additional adults per rental unit.

Sec. 18-140. Revocation, suspension or denial of a license.

The designated Town code enforcement officer or Chief of the police department may immediately revoke or suspend the license, or deny either the issuance or renewal thereof, if it is found that:

1. The licensee, designated operator, or guest has violated or failed to meet any of the provisions of this article or conditions of the license;
2. The licensee, designated operator, or guest has violated any federal, state, or city law, or regulation pertaining to the use of the property as a bed and breakfast facility or short-term rental facility;
3. The Chief of the police department or the Chief of the fire department has determined that the bed and breakfast facility or short-term rental facility would pose a serious threat to public health, safety, or welfare;
or

4. The applicant has made a false statement of material fact on an application for a bed and breakfast facility license or short-term rental facility license.

Sec. 18-141 Tax Requirements

- A. All short-term rental operators in West Virginia are required to collect state sales tax from their guests. The collected taxes must then be remitted to the West Virginia State Tax Department. This applies to rentals of living quarters or accommodations in hotels, motels, inns, or similar places, including residential properties offered for short-term rental.
- B. In addition to state sales tax, operators are responsible for collecting and remitting local occupancy taxes on all short-term rental properties located within the Town corporate limits. All local occupancy taxes must be remitted directly to the Town of Bath.

Sec. 18-142. Notice to applicant/licensee; appeals.

- A. Upon denial, suspension or revocation, the code enforcement officer, Mayor or Chief of the police department shall notify the applicant or licensee in writing either in person or by certified mail to the address listed on the application of the action taken and the reasons therefore. A person may appeal a decision to deny, revoke, or suspend a license to the Town of Bath Municipal Court. Appeals shall be submitted to the Town of Bath Municipal Court in writing within thirty days following the date the applicant or licensee receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular Municipal Court date. The Municipal Judge will render a decision on the appeal. A licensee shall not operate a bed and breakfast facility or short-term rental facility during the appeal process.
- B. At the appeal hearing on a denial of an initial license application, the appealing party must present evidence clearly indicating that the city was incorrect in determining that the stated grounds for the license denial existed.
- C. At the appeal hearing on a license suspension, revocation, or refusal to renew, the procedures shall not require compliance with strict rules or evidence but shall mandate that only relevant information be received.

Sec. 18-143. Severability and general provisions.

- A. That all ordinances or parts of ordinances in conflict with the provisions of this article are hereby repealed.

- B. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this article shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

- C. That a violation of the provisions hereof shall be a misdemeanor and the penalty for violating this ordinance shall be a fine not to exceed two hundred fifty dollars (\$250.00) and each day a violation exists shall constitute a separate offense and fine of twenty-five dollars (\$25.00).

FIRST READING: _____

SECOND READING: _____

ADOPTED: _____

MAYOR: _____ *DATE:* _____

RECORDER: _____ *DATE:* _____